



**Department of  
Job and Family Services**

# 2023 Child Support Guidelines Review

## **Report to the General Assembly**

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Respectfully Submitted to:

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The Honorable Jason Stephens

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The Honorable Nickie J. Antonio

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## 2023 Child Support Guideline Advisory Council

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## Executive Summary

Title IV-D of the Social Security Act requires Ohio to establish child support guidelines that are mandatory statewide for all courts and administrative agencies that issue child support orders. The Act requires that these guideline amounts be the presumptively correct child support obligation under state law, subject to reasonable deviations based on the best interest of the child. The Act also requires each state to review its guidelines every four years to ensure they result in appropriate orders.

In February 2022, the Ohio Department of Job and Family Services convened the 2023 Child Support Guideline Advisory Council to assist in the review of Ohio's child support guidelines, pursuant to the quadrennial review requirement found in Ohio Revised Code §3119.023. The Council assists the Department in the conduct of its review by providing input from a range of interested stakeholders that includes members of the Ohio General Assembly, state and county child support professionals, attorneys, judges, child support obligors and obligees, and other persons interested in the welfare of children.

This March 2023 report reflects an initial record of the current state of the Ohio child support guidelines, following the most fundamental revision in 25 years, which took effect March 28, 2019<sup>1</sup>. Changes were intended to generate more accurate and affordable orders resulting in more consistent payments for low-income families. Guidelines changes also included measures to address parent timesharing in Ohio's formula. By the end of federal fiscal year (FFY) 2022, only approximately twenty three percent of Ohio's child support orders have been calculated using the updated methodology. Thus, measurement of these intended results is not yet ripe for analysis.

The Department obtained technical assistance for economic review of the updated schedules, a labor market analysis, as well as a review of parent timesharing adjustments used by other states. Additionally, the Department conducted a deviation study to review a sample of orders completed under the current guidelines and solicited and received public input.

Core components of a guidelines calculation of support are the schedules based on child rearing expenditures. A significant change in the 2019 guidelines update included a mechanism for updating schedules and the self-sufficiency reserve every four years by rule. The economic review successfully tested and validated Ohio's methodology.

While analysis of 2019 guidelines impacts may be premature, members were also able to propose changes to worksheet functionality. Additionally, both member and public input called for more in-depth review of parent timesharing adjustments used in Ohio and other states. Accordingly, the Department is moving forward with two workgroups to consider these demands. The work of these groups will enable a more robust analysis of Ohio's guidelines for the next quadrennial review. The report and recommendations

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<sup>1</sup> See Sub. H.B. 366 (G.A. 132).

below do not necessarily reflect a consensus of the various stakeholders but represent a composite of stakeholder discussions.

## **Background of the 2023 Quadrennial Review**

The most recent Child Support Guidelines Review report was delivered to the Ohio General Assembly in March 2017<sup>2</sup> in accordance with Ohio Revised Code (ORC) §3119.024. A Child Support Guideline Advisory Council (CSGAC) had been established to assist the Department of Job and Family Services in that review process. The 2017 Review recited the cumulative recommendations based on previous guideline review efforts undertaken since 1993 and specifically cited the recommendations from the 2013 Child Support Guidelines Review that had been developed and incorporated into legislation during the 131<sup>st</sup> Ohio General Assembly, introduced as Senate Bill 262.

SB 262 did not pass during the 131<sup>st</sup> General Assembly. However, an identical bill, Senate Bill 125, was introduced during the 132<sup>nd</sup> General Assembly, on April 5, 2017, and a companion bill, House Bill 366, was introduced on October 2, 2017, in the Ohio House. On June 7, 2018, Substitute House Bill 366 (HB 366) passed out of the Ohio House and was sent for the Governor's signature. The provisions of the bill were effective on and after March 28, 2019.

The guideline review requirements in ORC §3119.024 were repealed and replaced in HB 366 with a revised guideline review timeline in a new ORC §3119.023. One notable difference between these provisions was the change in the date by which the Department is required to provide a report of its Child Support Guideline Review to the General Assembly. The first report under the new provision was due March 1, 2019, prior to the effective date of the provision<sup>3</sup>. A report, delivered to the General Assembly on or about March 1, 2019, would not have been mandated at the time of its delivery. Furthermore, any review of the Ohio child support guidelines on the eve of the effective date of a nearly complete revision of the same guidelines would be premature, and thus, no report was submitted.

In addition to the altered report schedule, review parameters, required by federal regulation in the Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs rule<sup>4</sup>, were updated in Ohio later that same year, effective October 17, 2019. The result is that the parameters for review of the guidelines are now more specific than the historic directive to determine whether child support orders calculated under the guidelines "adequately provide for the needs of the children who are subject to the child support orders."

Ohio's quadrennial review still requires the Department to determine whether child support orders adequately meet the needs of children subject to those orders. Requirements also require a comparison

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<sup>2</sup> All previous Guideline Review reports can be found at: <http://jfs.ohio.gov/Ocs/employers/OCSGuidelinesCouncilOverview.stm>

<sup>3</sup> RC §3119.023, as enacted on March 28, 2019, requires that "The department shall submit its report on or before the first day of March of every fourth year after 2015."

<sup>4</sup> § [81 FR 93562, Dec. 20, 2016] Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs

of order compliance that reflects the work and analysis of the prior councils which established a core principle: actual and consistent payment of support for Ohio's families is more valuable than large orders that a parent cannot afford to pay. As part of each review, the Department will consider economic data on the cost of raising children, labor market data for state and local job markets, impacts of policies and amounts on families below two hundred percent of the federal poverty level, and factors influencing employment rates and compliance with child support orders. Further, directives include analysis of orders that are issued as deviations from the guidelines as well as those that result from imputation of income, those calculated under the newly created self-sufficiency reserve, and those orders that are entered by default without participation of parties.

## Summary of Ohio Child Support Guidelines

As a result of cumulative recommendations from the seven preceding guidelines reviews, Ohio's child support calculation methodologies were overhauled, and new guidelines were effective March 28, 2019. This section provides a high-level overview of the changes contained in Substitute House Bill 366. For readers seeking more information about each item, a much more detailed account can be found in the 2017 Child Support Guideline Review online by following the link below:

<http://jfs.ohio.gov/Ocs/employers/OCSGuidelinesCouncilOverview.stm>

The discussion of the items below in the 2017 Review reflects the contents of Substitute House Bill 366 (G.A. 132), with only limited variations.

- **Update the Basic Child Support Schedule**

The basic child support schedule has been updated with current economic data using the fourth version of the Betson-Rothbarth estimator of child-rearing expenditures (BR4).

- **Revised Self-Sufficiency Reserve**

The schedule incorporates a revised low-income self-sufficiency reserve to ensure the parents' ability to pay the support obligation as well as establish an incentive to work. The reserve is established using a standard methodology described in the law.

- **Mandates Issuance and Periodic Update of the Basic Child Support Schedule, Guidelines Worksheets, and a Guidelines Manual, via Rule**

- The updated basic child support schedule is described in the law. Based on the updated basic child support schedule described in the law and pursuant to the rule-making statute contained in the bill, ODJFS has promulgated a new basic child support schedule. Per the law, it is required to be used statewide for calculation of child support obligations by all courts and administrative agencies. It will be updated at least every four years using an update methodology described in the law.

- Child support guidelines worksheets are used to calculate child support obligations on a case-by-case basis using the basic schedule. Based on the rule-making statute in the bill, ODJFS has promulgated two worksheets (one for sole custody and shared parenting, the other for split custody) that are mandatory for use statewide by all courts and administrative agencies. The worksheets will be updated at least once every four years.
  - Also based on the rule making statute in the bill, ODJFS has promulgated a Guidelines Manual for use by child support enforcement agencies, courts, attorneys, and lay users.
- **Child Support Calculation Policy**

In addition to the updated schedule of obligations, policies for calculating obligations using the child support guidelines are based on the Ohio Revised Code. These policies include income and expense credits and deductions that are implemented through the guideline calculation worksheets and by reference to ORC provisions. The following policies have been revised in the bill and incorporated into the guideline rules and forms:

    - **Parenting Time Adjustment**

The worksheets incorporate an adjustment to reflect the time spent in each parent’s home where there is a parenting time order in effect. A standard adjustment of 10% of the obligation amount for those cases with parenting time orders based on a local model order. In addition, the Ohio Revised Code contains an enhanced deviation adjustment for those cases that involve an extended parenting time order.
    - **Cash Medical Support**

The cash medical support obligation has been revised to require the establishment of a single child support obligation and a single cash medical support obligation. The cash medical support obligation will now be based on data from the U.S. Department of Health and Human Services estimating ordinary medical support expenditures for children.
    - **Calculation of Multiple Family Obligations**

Each parent will be given a deduction from gross income that reflects a standardized methodology for estimating expenditures toward their duty of support to children other than those who are the subject of the calculation at hand.
    - **Child Care Cost-Sharing Cap**

Given the choice and variable cost of available childcare, an upper limit for cost-sharing should be established based on available bi-annual childcare market research, conducted by the Office of Family Assistance within ODJFS, to avoid establishment of support obligations that are unreasonably high in relation to available income.
    - **Deviation Factors**

Existing factors used to deviate from presumptive support obligations have been clarified and simplified.



- **Administrative Review of Court Ordered Deviations**

During an administrative review and adjustment of a child support order, the support enforcement agency will now assume that the grounds for any previously granted deviations are ongoing and do not require an adjustment. Parties wishing to object to the findings may appeal directly to the court.

- **Minimum Child Support Orders**

The statutory minimum child support order has been increased to \$80 per month for annual incomes below \$8,400 with a sliding scale minimum order calculated as part of the self-sufficiency reserve. Child support enforcement agencies are now authorized to issue minimum child support orders in appropriate circumstances.

## **2023 Guidelines Review**

In any action in which a court or child support enforcement agency issues or determines the amount of child support that will be ordered to be paid pursuant to a child support order, the court or agency is required to calculate the amount of the parents' child support and cash medical support according to the basic child support schedule, the applicable worksheet, and the other provisions of Chapter 3119 of the Revised Code. All child support orders in Ohio are required to be paid through the child support program which provides the Department with an available data set for review. Since both the guidelines and the review requirements were substantially updated in 2019, ideally this report would function as a baseline for future reviews. While this report will begin to set the stage for evaluation of post-March 28, 2019 orders, data evaluation indicated that a thorough analysis of impacts on Ohio's families is still premature. Nevertheless, council input suggested several issues for further assessment.

## **Ohio Caseload and Data**

In 2022, the Ohio child support program served over 973,175 children, over 1,416,000 parents, and over 110,000 caretakers and administered approximately 746,364 child support cases. Approximately 70 percent of the children in Ohio's total caseload were identified as being born out of wedlock. In FFY 2022, Ohio's caseload ranked 4<sup>th</sup> largest overall, collecting above the national average in current child support, ranking 9<sup>th</sup> out of all states and territories and 4<sup>th</sup> among the top ten largest caseloads.

Despite these strong standings, large amounts of child support have, historically, gone unpaid. Due to the continuing annual accrual of substantial child support arrears over more than two decades, the Department asked the past two Ohio CSGACs to focus discussion on the relationship between these arrears, child support obligation amounts, and low-income obligors. The CSGAC concluded that if worksheet inputs (parent's income and other information) are accurate, but the guideline calculation output is an amount that leads to the accrual of arrears that cannot be effectively addressed through enforcement activities, it becomes important to investigate why. Specifically, the data and the research indicated the need for a closer look at the affordability of support obligations for parents who earned less

than \$40,000 per year. As a result, a primary focus behind the 2019 guidelines changes was the updated schedule adjustments and incorporation of a transparent self-sufficiency reserve for parents.

The Department attempted to revisit this discussion with the 2023 CSGAC to evaluate whether 2019 updates were generating more achievable orders. As directed by statute, efforts were made to review the impact of guidelines policies and amounts on parents who have family incomes below two hundred percent of the federal poverty level and to compare payments on orders by case characteristics. Unfortunately, evaluation of actual impacts of Ohio's new guidelines methodologies, including those implemented specifically to create affordable obligations for low-income families, is not yet possible. Although three years have passed since guidelines updates, intervening anomalous factors impede measurement of the subset of orders calculated under the current guidelines. Only twenty-three percent of current orders have been calculated using updated guidelines schedules and worksheets. The incremental update of the overall caseload was stalled in part during a period of tolling of court and administrative activity lasting from March 9, 2020 through July, 31 2020.<sup>5</sup> Additionally, staggered effective dates of sporadic new orders render categorical payment trends inconclusive. To complicate matters, sampling and analysis of individual case payments from 2019 through fall 2022 is also impractical as family economics have been substantially impacted by pandemic shutdown, economic stimulus payments, and enhanced unemployment amounts. In sum, the impact of revised obligation schedules and associated changes to guidelines laws cannot be known until a sufficient period of post-pandemic implementation has passed.

### **Deviation study**

The Department used the same methodology for this deviation study as was used by the three previous guidelines reviews. The CSGAC developed a questionnaire which was distributed to nine different counties, all of which were asked to review and complete a questionnaire for each new and modified child support order over a period of two weeks.<sup>6</sup> The study collected a range of data intended to analyze the frequency and types of deviations, as well as the frequency of imputation, orders entered by default, and orders entered for parents whose incomes fall in the self-sufficiency reserve. Additionally, the study gives an initial glimpse into how often orders incorporate the new adjustment for parenting time orders of 90 overnights or more. Full 2022 deviation study results are included in Appendix B.

Revised Code §3119.22 permits deviation when a court considers factors set forth in ORC §3119.23 and determines that the guidelines calculated amount "would be unjust or inappropriate and therefore not be in the best interest of the child." Twenty-eight percent of the court orders evaluated in this year's study represented deviations from the rebuttably correct guidelines amount of support. The statute provides 16 factors which could potentially justify deviation, but deviations for extended time or costs

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<sup>5</sup> See HB 197 (G.A. 133) and 3/27/2020 *Administrative Action*, 2020-Ohio-1166.

<sup>6</sup> See Appendix B, Deviation Study

associated with parenting constituted forty-four percent of the court ordered deviations, or roughly nine percent of the total orders. This is similar to 2017 deviation results.

In addition to other deviations that may be appropriate, ORC §3119.051 provides a 10 percent adjustment to the amount of a parent's support obligation when an order for parenting time allocates 90 or more overnights to that parent. This provision was utilized in 16 percent of the total orders evaluated and identified as "unknown" in an additional 10 percent of orders, presumably because a worksheet or other paperwork was not attached.

Other notable deviation study findings include 24 percent of order deviations justified as "any other factor" and an additional 31 percent designated as "unknown." Further review of written explanations of "any other factor" submissions indicates that most of these were based upon agreement of the parties and several "deviations" included explanations already included in a proper guidelines calculation of support. "Unknown" seems to indicate a lack of documentation provided to CSEAs. A high proportion of responses in these two categories suggests more evaluation may be needed to identify whether these are significant.

The 2022 deviation study also includes identification of orders established in circumstances where a parent did not provide information or documentation for the order calculation (i.e. established by default) and/or established by utilizing imputed income. In the study sample, 19 percent of the orders were specifically identified as having been entered by default and 34 percent were identified as calculated through imputation of potential income. It is commonly assumed that imputation of income for purposes of calculating support means that a court or CSEA is utilizing minimum wage without reviewing actual income verification for a parent. However, ORC §3119.01 (C) (17) provides 11 criteria that should be utilized and documented when determining potential income for a parent who is found to be voluntarily under or unemployed. The criteria include factors such as a parent's education and training, experience, and current actual ability to earn, as well as availability and wages of that employment where parent resides. Hence, on its own the mere fact that income has been imputed in a case is not a risk when used properly.

Finally, the study requested an evaluation of whether each order had been issued for parents earning income within the self-sufficiency reserve. Of the cases sampled, 56 percent were calculated for parents earning income at levels triggering utilization of the self-sufficiency reserve.

### **Economic Data**

Prior to the recent changes legislated by HB 366, Ohio's guidelines schedules had not changed from their original establishment in the Ohio Revised Code in 1993, despite several quadrennial guidelines reviews and various legislative attempts. Pursuant to ORC §3119.021 (C), child support guidelines schedules are now calendared by the Department for update by rule every four years for the percentage difference between the most recent United States Department of Labor CPI-U and the March 2016 CPI-U. That statute also requires that the self-sufficiency reserve be updated to 116 percent of the most recent federal

poverty level for a single person as reported by the United States Department of Health and Human Services. As an independent assessment, each quadrennial guidelines review is also required to include consideration of economic data on the cost of raising children for purposes of determining whether guidelines schedules produce orders that adequately meet the needs of children. For purposes of this review, the Department has enlisted the expertise of the Center for Policy Research (CPR Denver) to assist with analysis of current schedule methodologies and comparison to the statutorily mandated schedule calculations. This report is included as Appendix A.

Despite being enacted only three years ago, the data and assumptions underlying Ohio's schedules are now several years old.<sup>7</sup> CPR Denver has conducted a review of current economics and available data regarding Ohio's schedules of support obligations as well as the self-sufficiency reserve and compiled a table for comparison against an approximation of the statutory update calendared to take effect in 2023. The CPR Denver report describes several factors that have changed from the time that Ohio's formula was developed, but most reflect a current snapshot of a period in flux. For example, there is an updated Betson/Rothbarth child rearing expenditure study available using data through 2019, but that study was conducted pre-pandemic. The CPR Denver report states concern that the pandemic has had a great impact on all expenditures over the past few years and that it may take years to evaluate whether a new "normal" has been reached.<sup>8</sup> Additionally, while tax codes have changed from those underlying the assumptions in Ohio's tables, those changes are slated to end in 2025. CPR Denver also proposes an alternate self-sufficiency reserve. Despite changes in several factors that could produce more "up to date" schedules, the CPR Denver report comparisons conclude that executing the mandated statutory schedule updates in Revised Code section 3119.021 produces a schedule with remarkably close results to a schedule produced using other factors, such as the 2019 Betson/Rothbath child rearing expenditure study.

CPR Denver has also provided technical assistance for an evaluation of consideration of labor market data, such as unemployment rates, employment rates, hours worked, and earnings, by occupation and skill level for the state and local job markets. Additionally, information regarding factors affecting employment rates and compliance with child support orders is included for consideration. Consideration of these factors inform appropriate imputation and assessment of the self-sufficiency reserve. The overall takeaway for child support purposes is that availability of employment and hours worked varies across trade and region and that imputation should be limited to appropriate statutory use on a case-by case basis.<sup>9</sup>

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<sup>7</sup> See Appendix A: Review of the Ohio Child Support Guidelines: Technical Report: Economic data on the Cost of Raising Children and Other Guideline issues, Section 2

<sup>8</sup> See Appendix A: Review of the Ohio Child Support Guidelines: Technical Report: Economic data on the Cost of Raising Children and Other Guideline issues, Section 2, p7

<sup>9</sup> See Appendix A: Review of the Ohio Child Support Guidelines: Technical Report: Economic data on the Cost of Raising Children and Other Guideline issues, Section 3

## Technical Guideline Issues

Members of the CSGAC are chosen for their subject matter expertise with respect to child support guidelines and are able to share unique perspectives on how guidelines mechanics function for families in Ohio. This is especially useful when implementing new schedules, worksheets, and manuals issued pursuant to new law. The 2023 council submitted several suggestions for improvement that will be addressed here.

As previously mentioned, the creation of child support guideline worksheets and an instruction manual for completion are now revisable through the administrative rule process pursuant to ORC §3119.22. Several suggested updates fall into the category of changes that may be implemented through rulemaking to clarify worksheet forms. The Department has decided to undertake this clarification and will explore the following recommendations further with the assistance of stakeholders represented by the CSGAC. Topics that will be referred to a workgroup for consideration are as follows:

- Reconsideration of including mandatory work-related deductions on the worksheet. While prior councils recommended that these be removed, these deductions are still allowed pursuant to ORC §3119.01(C)(12)(d),
- Clarification of processing fee amounts that should be included with an order pursuant to ORC §3119.27 (a),
- Clarification of proper crediting of a parent's derivative benefits from Social Security Disability or Retirement awards to allow credit against the entire order,
- Consideration to clarify an order being reduced below \$80 pursuant to §3119.06,
- Creation of a worksheet that can be utilized for third party caretaker calculations of support, and
- Evaluation of the proper credit for a parent who pays childcare expenses in excess of his or her income share.

## Parent Timesharing

A methodology to account for parent timesharing has been historically controversial for prior Ohio CSGACs and the topic received both public and member comment in the 2023 council as well. Ohio law treats parent timesharing and associated costs as a factor for consideration when deviating from a guidelines calculation of support. But whether to deviate and the specific mathematic treatment is left to the discretion of the courts. The 2019 guidelines updates made an incremental change to the parent timesharing policy for child support orders and included a methodology for adjustment for parents with an order documenting 90 or more overnights as well as a requirement for courts to consider and explain a failure to deviate for parents with 147 or more overnights with their children. 2023 CSGAC input included discussion of methodologies used by other states as well as requests to implement mathematic solutions. The Department sought technical assistance from CPR Denver for a detailed analysis of parent

timesharing methodologies used by other states.<sup>10</sup> As with other aspects of Ohio's guidelines calculation methodologies, it is premature to analyze the impact of 2019 changes on timesharing adjustments for Ohio's families. However, CPR Denver was able to provide a survey of methodologies used in other states as well as recommended policy considerations to guide a more thorough evaluation of Ohio's timesharing formula. The CSGAC agreed that the matter is worth further deliberation and several members have volunteered to participate in an ODJFS Office of Child Support workgroup to study the matter.

## Public Input

Each quadrennial review is required to include meaningful public comment. The 2023 review provided two opportunities for public input via online survey. Initially, a survey was posted on the Ohio Office of Child Support Customer Service Portal that requested obligee and obligor feedback as well as input about Ohio's child support guidelines. Subsequently, a second survey solicited feedback through the Customer Service Portal as well as the Register of Ohio and was promoted through ODJFS social media. The surveys elicited input from 2,087 responders; 84% of whom were obligees of a child support order and 16% were obligors. Respondents answered an open-ended prompt: "Please explain any concerns with the current child support guidelines that you would like the Ohio Child Support Advisory Council to consider." Four hundred ninety-three responses mentioned enforcement issues. Child support calculation issues included: personal/child expenses (83), custody/parenting time (56), imputing income/verification (34), childcare or medical support (23), and income/income shares (15).

Additionally, members of the public were invited to register and present feedback at a CSGAC meeting in August of 2022. One member of the public did choose to register and presented feedback regarding Ohio's methodology for addressing parent timesharing in the calculation of a child support order.

## Conclusion

In sum, Ohio's caseload is still largely comprised of orders that predate 2019 guidelines changes, so it is not yet possible to accurately assess the impact of those changes on families. However, the Department was able to engage in evaluation of a sample of post 2019 orders and enlisted the technical expertise of an economist to provide feedback on the recently revised child support schedules and self-sufficiency reserve. Importantly, Center for Policy and Research concluded that Ohio's new methodology for periodic updates via the Ohio Administrative Code worked to produce remarkably similar orders to those calculated using other recommended update methodologies.

The Department makes no recommendations for statutory change. However, members were able to propose changes to worksheet functionality that can be achieved by rule, adopted in accordance with Chapter 119. Both member and public input also called for more in-depth review of parent timesharing adjustments methodologies. Accordingly, the Department is moving forward with two workgroups to

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<sup>10</sup> See Appendix A: Review of the Ohio Child Support Guidelines: Technical Report: Economic data on the Cost of Raising Children and Other Guideline issues, Section 4

consider these issues. The work of these groups began in January 2023 and will enable a more robust analysis of Ohio's guidelines for the next quadrennial review.

## Appendix A: Economic Study

# Review of the Ohio Child Support Guidelines: Technical Report: Economic Data on the Cost of Raising Children and Other Guidelines Issues

*Submitted to:*

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(Revised Feb. 7, 2023)

Points of view expressed in this document are those of the authors and do not necessarily represent the official position of the State or the Child Support Guidelines Advisory Council. The author is responsible for any errors and omissions.



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## EXECUTIVE SUMMARY

This report will be appended to a report on the findings from the 2022 Ohio Child Support Guidelines Review. The Ohio Department of Job and Family Services (ODJFS) Office of Child Support (OCS) is reviewing the guideline pursuant state statute (O.R.C. § 3119.024) and with input from the Child Support Guidelines Advisory Council that comprises a wide range of stakeholders. OCS sought technical assistance on three factors addressed in the 2022 review:

- Fulfilling the federal requirement (45 C.F.R. § 302.56(h)(1)) to consider economic data on the cost of raising children as part of a state's child support guidelines review;
- Fulfilling the federal requirement (45 C.F.R. § 302.56(h)(1)) to analyze labor market data as part of a state's child support guidelines review; and
- Comparing Ohio's approach for adjusting for shared physical custody to those of other states, particularly neighboring states.

This report documents the findings from this technical assistance.

### ANALYSIS OF ECONOMIC EVIDENCE ON CHILD-REARING COSTS

Federal regulation requires states to consider economic data on the cost of raising children as part of their quadrennial review. This is required even though Ohio state statute directs ODJFS to update the schedule every four years using a statutory formula that relates to gross income and changes in the Consumer Price Index. The existing child support schedule and the statutory formula were developed from data available in 2015. It became effective in 2019; the next update is in 2023. The 2022 review, however, provides an opportunity to re-assess the statutory formula, particularly since much has changed since the formula was developed.

The formula was developed from numerous assumptions including an economic study of child-rearing expenditures that was conducted in 2010 and federal and state income tax rates in 2015. The tax assumptions are of particular concern since tax rates changed in 2018 due to major federal tax reform. Another concern is recent inflation, which is high. To assess the statutory formula, an updated schedule is developed using a more current economic study on child-rearing expenditures, current federal and state income taxes, current price levels, and Ohio's price parity. The amounts are similar to a schedule based on the statutory formula using 2022 price levels. The only exception is at high income. The statutorily updated schedule is less than an updated schedule using more current data at very high incomes.

The analysis also considered the low-income adjustment that is incorporated into it. It includes a self-support reserve (SSR) equivalent to 115 percent of the federal poverty guidelines for one person, a minimum order of \$80 per month for incomes below that, and a phase-out formula to the schedule amounts based on economic evidence on what families actually spend on children. The SSR aligns to levels of other states, the minimum order is a little high (\$50 per month is more common), and Ohio's phase-out is one of the most generous of any state. It results in the phase-out occurring above incomes

greater than \$100,000 for larger family sizes. This is arguably not low income. Due to this, an alternative phase-out is also reviewed in this report.

#### FINDINGS FROM THE ANALYSIS OF LABOR MARKET DATA

Federal regulation requires the analysis of labor market data. The intent is to gather information about the employability of low-skilled workers within a state to help inform income imputation provisions and the low-income adjustment. In most states, many parents with child support cases that are being served by a government child support agency have barriers to employment and earnings including limited job skills, low educational attainment, history of incarceration, and other barriers.

Although state data are not available, national data finds that 35 percent of parents not living with at least one of their children have incomes below 200 percent of poverty, almost half have a high school degree or less, and they are less likely to work full-time and year-round. Labor market data reveals that many low-skilled and low-paying jobs do not offer a 40-hour work week or an opportunity for paid work each week of the year. The average number of hours worked per week in Ohio is 34.3 hours per week. The average hours worked is significantly less in some industries, particularly those paying low wages (e.g., the average hours worked per week in Ohio leisure and hospitality is 22.6 hours per week). Exacerbating the issue is that employment opportunities in Ohio are more limited than in the U.S. as a whole. This is evident by Ohio's higher unemployment rate, which was 4.2 percent in October 2022, while it was 3.7 percent for the nation as a whole in October 2022.

#### FINDINGS FROM THE ANALYSIS OF TIMESHARING ADJUSTMENTS IN STATE GUIDELINES

Adjustments for shared-parenting time are important. Research generally shows that children do better when both parents are in their children's lives, even if the parents live apart. Timesharing arrangements and the amount vary among those that have timesharing from case to case. Not all cases have a timesharing agreement or order. The situation differs remarkably between ever-married and never-married parents, partially due to a divorce not only requires the consideration of child support, but custody. Another factor that contributes to differences is Ohio counties have different parenting-time guidelines. In all, the variation challenges constructing one formula that can appropriately serve all timesharing scenarios.

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##### Overview of Timesharing Formulas and Provisions in State Guidelines

Federal regulation requires each state to have presumptive, rebuttal child support guidelines that must be applied to all legal proceedings within a state where child support is an issue. It does not require a state guidelines to include a timesharing formula. Nonetheless, 41 states (including Ohio) and the District of Columbia provide a timesharing formula within their guidelines. Most states apply their timesharing formula as a rebuttal presumptive formula if certain criteria are met. The most common criterion is court-ordered timesharing. The most common formula is a "cross-credit formula," which is essentially a theoretical order calculated for each parent in which each parent's theoretical order is weighed by the percentage of the child's time with the other parent and is then offset. It is used in 22 states. The strength of the cross-credit is that it is theoretical sensible and explainable. Some of its limitations are that it requires another worksheet, and, depending on the incomes of the parents and

the timesharing threshold for its application, it can produce a significant reduction in the support order at that timesharing threshold. Some believe that significant reductions (also called “cliff effects”) can encourage parental conflict about the timesharing arrangement right around that threshold.

The other 19 states (including Ohio) generally have unique formula to their states. Except for the formula used by both Michigan and Minnesota, no two timesharing formulas look alike. Ohio’s formula consists of a simple 10 percent reduction for timesharing of 90 overnights or more per year. Ohio also provides for a deviation for more timesharing and the consideration of a deviation when there is about equal timesharing. Ohio is not the only state to have a two-tier approach and to provide for a deviation at equal timesharing.

#### [Timesharing Formulas of Neighboring States](#)

All states bordering Ohio (i.e., Indiana, Kentucky, Michigan, Pennsylvania, and West Virginia) provide timesharing formulas and thresholds at which the formula applies that differ from each other and Ohio. The timesharing thresholds range from one overnight for Michigan’s adjustment to 40 percent for Pennsylvania’s adjustment. All but Michigan and West Virginia require a parenting-time order to apply the adjustment. Kentucky will not apply the adjustment if the children are enrolled in TANF, SNAP, Medicaid, or CHIP. Only the Michigan and West Virginia formula will flip the parent obligated to pay support if the greater-time parent has significantly more income than the other parent. The Kentucky, Michigan, and West Virginia formulas will provide a zero order when there is equal income and equal custody. The Indiana and Pennsylvania formulas will not.

#### [Key Variations in State Timesharing Formula](#)

The formulas vary in their simplicity, theoretical basis, and outcomes. Some are easier to explain or calculate than others. Some apply when there is as little as one overnight per year and others require about 50/50 percent equal custody before they apply. Many timesharing formulas will produce a zero order when there is equal custody and equal income. Some do not. Some of those that do not clearly state that the policy assumption is that there is always one parent who incurs more child-rearing expenses than the other even in equal shared-custody cases. That parent may be the one the child uses as the school residence or incurs the cost of school fees, the child’s cell phone (assuming the child has one), and other expenses that are only incurred by one parent. In general, there appears to be trade-offs between keeping the formula simple and providing a timesharing formula that can address the variety of circumstances of child support cases when timesharing is an issue and the various concerns about timesharing adjustments.

#### [Public Comments about Ohio’s Timesharing Adjustment](#)

This report also summarizes the 24 comments about parent timesharing Ohio received during its public comment period for its state child support guidelines review. Ohio received over 2,000 public comments in all. The majority of the 24 comments were received by parents who paid support. The most common suggestion was to set the child support order at zero when there is equal (50/50) timesharing.

### Recommended Considerations for Assessing a State’s Timesharing Formula and Alternatives

Based on the analysis of other state’s adjustment, a list of policy considerations was developed to help Ohio decide if its current adjustment is appropriate and, if not, what timesharing formula would better serve Ohio families and children. The list is provided at the end of the executive summary.

## CONCLUSIONS

There are three major conclusions.

- The statutory formula for updating the Ohio child support schedule appears to work. It is designed to update the schedule administratively every four years. It was tested against a schedule using more current economic data. The differences were generally small, with the exception at very high incomes.
- The analysis of labor market data reiterates the importance of considering the individual circumstances of the parent and the local employment opportunities when income imputation is authorized.
- There are many options for timesharing formulas, and many factors to consider in deciding what is most appropriate for Ohio families and children. Exhibit E-1 summarizes the factors that appear in the narrative of the report.

**Exhibit E- 1: Summary of Factors to Consider when Assessing (and possibly Modifying) How Parent Timesharing Is Addressed in the Guidelines**

1. Is the current approach appropriate, just, and in the best interest of the child? How have the experiences since the guidelines were changed in 2019 inform this? Is there sufficient data to inform it?
2. What are the appropriate criteria for applying the adjustment (e.g., court-ordered shared custody arrangement, agreed-to-by-parents, or actual)?
  - a. How do the criteria align with local parenting-time guidelines and the establishment/modification of parenting-time orders?
  - b. How do the criteria align with the judicial/administrative process for establishing/modifying child support orders?
  - c. If “actual timesharing is considered,” what evidence is appropriate (see Michigan’s provision)?
3. Should the adjustment be applied at judicial discretion or presumptively?
4. How should “days” or “overnights” be defined and non-traditional work schedules/timesharing arrangements be addressed?
5. What should the basis of the actual formula be? Is it appropriate to have two different formulas (as Minnesota use to and Iowa and North Dakota still do)?
  - a. Is it important for the formula to have a theoretical basis at the expense of being simple?
  - b. Is it important for the formula to be explainable at an intuitive level?
  - c. Should the formula be limited to one that can be calculated manually?
  - d. How can Ohio balance the trade-off between keeping the formula simple and not having “cliff” effects” when the child’s time with the parent-parent increases?
6. Is a timesharing threshold necessary for the adjustment and, if so, what should it be?
7. Should the formula produce a zero order when parents have equal incomes and timesharing is 50/50, or does one parent have “controlled” expenses (i.e., one parents buys clothes and cell phone—assuming the child has one—and picks up school fees)?
8. Should certain types of expenses (e.g., extracurricular activities) and how parents share them be signaled out? (See New Hampshire provision in Appendix B.)
9. Is a separate worksheet or automated calculator for calculating support using an alternative timesharing formula feasible? Can it be made accessible to all stakeholders?
10. Is it appropriate and just for a parent to receive a parenting-time adjustment *and* a low-income adjustment?
11. Is it appropriate and just to apply the adjustment only if the custodial household’s income is above a certain threshold?
12. How should modification of the order be addressed if timesharing does not occur as calculated in the order? How can it work within existing Ohio’s current legal process?

## SECTION 1: INTRODUCTION

This report will be appended to the findings from the 2022 Ohio Child Support Guidelines Review. The Ohio Department of Job and Family Services (ODJFS) Office of Child Support (OCS) is reviewing the guideline pursuant state statute (O.R.C. § 3119.024) and with input from the Child Support Guidelines Advisory Council that comprises a wide range of stakeholders. OCS sought technical assistance on three factors addressed in the 2022 review:

- Fulfilling the federal requirement (45 C.F.R. § 302.56(h)(1)) to consider economic data on the cost of raising children as part of a state’s child support guidelines review;
- Fulfilling the federal requirement (45 C.F.R. § 302.56(h)(1)) to analyze labor market data as part of a state’s child support guidelines review; and
- Comparing Ohio’s approach for adjusting for shared physical custody to those of other states, particularly neighboring states.

This report documents the findings from this technical assistance. It was prepared by Center for Policy Research (CPR).<sup>11</sup>

The intent of the federal requirement for states to consider economic evidence on childrearing expenditures is to use the evidence to assess the appropriateness and adequacy of a state’s child support guidelines schedule/formula, then to make changes, if appropriate. The intent of the federal requirements for states to consider labor market information is to use it to improve low-income adjustments and income imputation provisions in state child support guidelines since both factors consider the employability of parents.

Timesharing formulas are an important part of child support guidelines. There are over a dozen unique formulas used by states to adjust for timesharing. Ohio’s formula is unique to Ohio. Two things unique to the Ohio formula are its simplicity at low levels of timesharing and the fact it does not have a formula for equal custody; instead, it leaves it to court discretion.

## ORGANIZATION OF REPORT

The remainder of the report considers five sections. The second section summarizes the findings from the economic analysis. The third section summarizes the findings from the labor market analysis. The fourth section analyzes timesharing adjustments. The final section concludes the report.

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<sup>11</sup> CPR is an independent, non-profit organization that conducts research, evaluation, and technical assistance to government agencies, courts, and foundations on children and poverty issues. More information about CPR can be found at <http://centerforpolicyresearch.org>.

## SECTION 2: ANALYSIS OF ECONOMIC DATA ON COST OF RAISING CHILDREN

Ohio sets its child support guidelines in Ohio Revised Code section 3119.<sup>12</sup> It was last revised in 2019. The statute contains a formula to be used by ODJFS to develop a child support schedule. The formula is also to be used by ODJFS every four years to update the schedule for changes in price levels. This is scheduled to occur in 2023. This section reviews economic data on the cost of raising children and uses it to prepare an updated child support schedule for Ohio. It is compared to the existing schedule amounts, a schedule updated for changes in price levels using the statutory formula, and the child support formulas of neighboring states. The core of the schedule relates to economic evidence of child-rearing expenditures. It also incorporates a low-income adjustment (which is a federal requirement of state guidelines) that relates to the federal poverty guidelines (FPG). The Ohio low-income adjustment consists of a self-support reserve (SSR) and a minimum order that is generally applied to incomes below the SSR. The SSR is then gradually phased out to the economic evidence on child-rearing expenditures. The amounts of the minimum order and SSR, as well as the phase-out rate of the SSR, are policy decisions. The statutory formula also provides for a formula to update the low-income adjustment.

The statutory formula is an outcome from the last review. Its purpose is to keep the schedule updated for changes in price levels administratively. Prior to this change, the child support schedule had not been updated for over 20 years. Since the statutory formula became effective in 2019, the year 2023 marks the first time that it will be applied for changes in price level. Given recent high inflation, that there is new economic evidence on child-rearing expenditures, and other changes, this review is an opportunity to test whether the statutory formula works.

The statutory formula provides the raw percentages for a basic child support schedule. In turn, the ODJFS Office of Child Support (OCS) develops a child support schedule from it, publishes a user-friendly child support manual for child support guidelines users,<sup>13</sup> and provides an automatic guidelines calculator that incorporates the schedule.<sup>14</sup> Users of the automatic guidelines calculator may not be aware that the guidelines amount is calculated from a schedule. In manual calculations, the schedule is integral to the calculation.

The schedule specifies the basic support obligation depending on the combined income of the parents and the number of children. The schedule is based on economic evidence on the cost of raising children. Exhibit 1 provides an excerpt of the existing schedule. The support obligation is determined by prorating the paying-

Exhibit 1: Excerpt of Existing Schedule

Excerpt from the the Basic Child Support Schedule			
Annual Income	One Child	Two Children	Three Children
75000	\$10,251	\$ 15,298	\$18,074
75600	\$10,286	\$ 15,349	\$18,133
76200	\$10,321	\$ 15,401	\$18,191
76800	\$10,357	\$ 15,452	\$18,250
77400	\$10,392	\$ 15,503	\$18,308
78000	\$10,428	\$ 15,555	\$18,367
78600	\$10,463	\$ 15,606	\$18,425
79200	\$10,508	\$ 15,672	\$18,504
79800	\$10,556	\$ 15,747	\$18,595
80400	\$10,605	\$ 15,823	\$18,687
81000	\$10,654	\$ 15,898	\$18,778
81600	\$10,703	\$ 15,973	\$18,869
82200	\$10,752	\$ 16,048	\$18,960

<sup>12</sup> Ohio Statute can be retrieved at <https://codes.ohio.gov/ohio-revised-code/chapter-3119>.

<sup>13</sup> Ohio Department of Job and Family Services, Office of Child Support. (2019). *Child Support Guidelines Manual*. <https://www.mcoho.org/JFS-Child-Support-Manual.pdf>.

<sup>14</sup> The Ohio Department of Job and Family Services, Office of Child Support calculator is available from <https://ohiochildsupportcalculator.ohio.gov/home.html>.



parent's share of the basic obligation. For example, if the income of the paying-parent is \$40,000 per year and the income of the receiving-parent is \$38,000 per year, the combined income is \$78,000 per year. The basic obligation for a combined annual income of \$78,000 for one child, based on Exhibit 1, is \$10,428 per year. This reflects economic data on how much parents would spend on the child together if they lived in the same household and shared financial resources. Each parent is responsible for their prorated share of \$10,428. The paying-parent's prorated share of the parents' combined gross income is 5 (i.e., \$40,000 divided by \$78,000), which yields \$5,348 per year (51% multiplied by \$10,428). This is the basis of the child support obligation. There may be additional adjustments for other considerations such as the ordinary medical expenses or timesharing of the child.

The existing Ohio schedule/statutory formula relies on a 2010 study of child-rearing expenditures from expenditures data collected from families in 2004–2009.<sup>15</sup> The study was conducted by Professor David Betson, University of Notre Dame, using the Rothbarth methodology to separate child-rearing expenditures from total household expenditures. An economic methodology is necessary because many household expenditures (e.g., electricity for the home) are consumed by both children and adults living in the same household, and the children's share and adults' share are indistinguishable.

#### SCHEDULE UPDATE AND CURRENT ECONOMIC DATA ON COST OF RAISING CHILDREN

Child support schedules and formulas are part policy and part economic data. Most state guidelines rely on a study of child-rearing expenditures as the underlying basis of their child support schedule or formula. The existing Ohio schedule not only considers economic data on the cost of raising children, but other economic data: the consumer price index (CPI), federal and state income taxes and FICA, and the federal poverty guidelines (FPG) for one person. The CPI is used to update to current price levels due to the age of economic studies caused by lags between when expenditures data is collected and analyzed and available. Payroll taxes are considered because households generally make expenditure decisions based on spendable income (i.e., after-tax income), not gross income. The FPG is used for the self-support reserve (SSR). Federal regulation (45 C.F.R. § 302.56(c)(1)(ii)) requires states to consider the subsistence needs of the paying-parent through a SSR or another low-income adjustment. Many states (including Ohio) use the FPG as a measurement of subsistence.

Although the 2018 legislature adopted the current guidelines and it became effective in 2019, its core was developed in 2015. Exhibit 2 shows the economic basis of the existing schedule (which is the same as the statutory formula) and an updated schedule. The updated schedule relies on the same assumptions as the existing schedule/statutory formula, it only updates it for more current data. The assumptions are also shown in Exhibit 2. The guidelines review presents an opportunity to review the assumptions as well. Exhibit 2 shows the basis of the schedule in effect prior to the current one. It adds context (e.g., why the schedule starts at combined adjusted gross incomes of \$8,600 per year).

The remainder of this subsection elaborates on each of the key factors shown in Exhibit 2 separately.

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<sup>15</sup> Betson, David M. (2010). "Appendix A: Parental Expenditures on Children." *In* Judicial Council of California, Review of Statewide Uniform Child Support Guideline. San Francisco, CA. Retrieved from <http://www.courts.ca.gov/partners/documents/2011SRL6aGuidelineReview.pdf>.

**Exhibit 2: Summary of Economic Data and Assumptions Underlying Current and Updated Schedule**

Factor	Basis of Previous Schedule	Basis of Existing Schedule (became effective 3/2019)	Updated	Alternatives
1. Guidelines model	Income Shares	Income Shares	Income Shares	41 states rely on income shares. Other models in use are percentage of paying-parent's income and the Melson formula
2. Study of child-rearing expenditures	1st Betson-Rothbarth (BR1) study (1990–1996 expenditure data)	4th Betson-Rothbarth (BR4) study (2004–2009 expenditure data)	5 <sup>th</sup> Betson-Rothbarth (BR5) study (2013–2019 expenditure data)	USDA and other studies
3. Price levels	1992	Mar. 2015	Oct. 2022	Prices have increased 26.2% since existing schedule was developed
4. Income Considered (annual)	\$8,400–\$150,000	\$8,400–\$300,000 in statute; \$8,400–\$336,000 in OCS Manual	\$8,400–\$477,600	Can extrapolate to higher incomes from available data
5. Exclude healthcare expenses and childcare expenses from schedule	Excluded all except \$100 per child per year in ordinary medical expenses	Excluded all using data from 2004–2009	Exclusion is done using data from 2013–2019	Most states include a nominal amount of out-of-pocket medical expenses in the schedule
6. Spending more/less of after-tax income	Use actual ratios with cap	Use actual ratios with cap	No change	Assume all after-tax income is spent
7. Adjust for federal and state taxes	1992 federal and state income tax withholding formula for single tax filer	2015 federal and state income tax withholding formula for single tax filer	2022 formulas	Assume tax rate of married couple
8. Low-income adjustment	<ul style="list-style-type: none"> <li>Self-support reserve (SSR) = \$7,536 gross per year (gross equivalent of 1992 federal poverty guidelines).</li> <li>Minimum order of \$600/year</li> </ul>	<ul style="list-style-type: none"> <li>SSR = \$13,780 (116% of 2016 federal poverty guidelines)</li> <li>Minimum order = \$960 per year with sliding scale increases and phase out</li> </ul>	Algorithm in statute: SSR = 116% of 2022 FPG: \$15,764 per year  Minimum order = same as existing	Minimum order, SSR, and phase-out are policy decisions
9. Other Considerations		Converted to a gross-income tax table to periodically update for inflation		Adjusting for Ohio price parity (2020 level was 91.7)

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### Factor 1: Guidelines Model

The guidelines model, which is a policy decision, is important to directing what economic data on the cost of raising children to use. The most common principle used for state guidelines models is what University of Wisconsin researchers call the “continuity of expenditures model”—that is, the child

support award should allow the children to benefit from the same level of expenditures had the children and both parents lived together.<sup>16</sup> In the income shares guidelines model—which is used by 41 states, including Ohio—the paying-parent’s prorated share of that amount forms the basis of the guidelines-determined amount. Most states that use the percentage-of-obligor income guidelines model use the same economic studies but presume that the receiving-parent contributes an equal dollar amount or percentage of income to child-rearing expenditures.

Besides the income shares and the percentage-of-obligor income guidelines model, three states (i.e., Delaware, Hawaii, and Montana) use the Melson formula, which is a hybrid of the income shares approach and the percentage-of-obligor income guidelines. Each of these states prorates a basic level of support to meet the primary needs of the child; then, if the paying-parent has any income remaining after meeting their share of the child’s primary support, their own basic needs, and payroll taxes, an additional percentage of their income is added to their share of the child’s primary support.

Research finds that other factors (e.g., economic basis, whether the schedule has been updated for changes in price levels, and adjustments for low-income parents) affect state differences in guidelines more than the guidelines model.<sup>17</sup> All states that have switched guidelines models in the last two decades have switched to the income shares model (i.e., Arkansas, District of Columbia, Georgia, Illinois, Massachusetts, Minnesota, and Tennessee). Common reasons for switching to the income shares model are its perception of equity because it considers each parent’s income in the calculation of support and its flexibility to consider individual case circumstances such as extraordinary child-rearing expenses that vary from case to case (e.g., childcare expenses) and timesharing arrangements. Besides the guidelines models in use, there are several other guidelines models not in use that have been proposed in several states.<sup>18</sup> Each have failed for various reasons.

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## Factor 2: Studies of Child-Rearing Expenditures

There are several measurements of child-rearing expenditures that form the basis of state guidelines. They vary in data years and methodology used to separate the child’s share of expenditures from total household expenditures. The newest Betson-Rothbarth (which is called “BR5” because it is the fifth Betson-Rothbarth study) clearly emerges as the most appropriate study to use for updating the Ohio schedule. Its underlying data (expenditures from families surveyed in 2013–2019) is more current than that of any other study besides the Florida State study<sup>19</sup> that uses the same data years but is not in use

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<sup>16</sup> Ingrid Rothe & Lawrence Berger. (Apr. 2007). “Estimating the Costs of Children: Theoretical Considerations Related to Transitions to Adulthood and the Valuation of Parental Time for Developing Child Support Guidelines.” *IRP Working Paper*, University of Wisconsin: Institute for Research on Poverty, Madison, WI.

<sup>17</sup> Venohr, J. (Apr. 2017). Differences in State Child Support Guidelines Amounts: Guidelines Models, Economic Basis, and Other Issues. *Journal of the American Academy of Matrimonial Lawyers*.

<sup>18</sup> For example, see the Child Outcomes Based Model discussed by the Arizona Child Support Guidelines Review Committee, Interim Report of the Committee, Submitted to Arizona Judicial Council, Phoenix, Arizona on October 21, 2009; the American Law Institute (ALI) model can be found in the 1999 Child Support Symposium published by *Family Law Quarterly* (Spring 1999); and the Cost Shares Model can be found at Foohey, Pamela. “Child Support and (In)ability to Pay: The case for the cost shares model.” (2009). *Articles by Maurer Faculty*. 1276. Retrieved from <https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=2271&context=facpub>.

<sup>19</sup> Norribin, Stefan C., et al. (Nov. 2021). Review and Update of Florida’s Child Support Guidelines. Retrieved from <http://edr.state.fl.us/Content/special-research-projects/child-support/ChildSupportGuidelinesFinalReport2021.pdf>.

by any state. BR5 also essentially uses the same methodology and assumptions as the basis of the existing schedule, which is an earlier Betson-Rothbarth (BR) study. Most states rely on a BR study. Alabama, Arizona, Iowa, Missouri, Pennsylvania, and South Dakota rely on the BR5 measurements. Several other states currently have proposals to update their schedule using the BR5 measurements. Most BR states, however, rely on older BR studies.

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#### Economic Methodologies and Rothbarth Estimates

Economists do not agree which economic methodology best measures child-rearing expenditures. Most conventional economists believe that the Rothbarth methodology understates actual child-rearing expenditures.<sup>20</sup> When Congress first passed legislation (i.e., the Family Support Act of 1988) requiring presumptive state child support guidelines, it also mandated the U.S. Department of Health and Human Services to develop a report analyzing expenditures on children and explain how the analysis could be used to help states develop child support guidelines. This was fulfilled by two reports that were both released in 1990. One was by Professor David Betson, University of Notre Dame.<sup>21</sup> Using five different economic methodologies to measure child-rearing expenditures, Betson concluded that the Rothbarth methodology was the most robust<sup>22</sup> and, hence, recommended that it be used for state guidelines.

The 1990 study generated the first set of Betson-Rothbarth (BR) estimates. It was based on expenditures data collected from families in 1980–1986. Subsequently, Betson developed four more BR measurements, each using more current expenditure data. Ohio was the first state to adapt the Betson-Rothbarth measurements.

The second study resulting from the Congressional mandate was by Lewin/ICF.<sup>23</sup> It assessed the use of measurements of child-rearing expenditures, including the Betson measurements, for use by state child support guidelines. The Lewin/ICF study suggested that the Rothbarth estimator understated actual child-rearing expenditures but could be used to gauge the adequacy of a state child support guidelines. If the amount of a state guidelines was below the Rothbarth amount, it may be too low. Lewin/ICF also concluded that no methodology perfectly measured actual child-rearing expenditures. To this end, they suggested using both the lowest (i.e., the Rothbarth estimator at the time) and the highest of credible measurements to assess a state's guidelines amounts. If the guidelines amount is above the highest estimate of child-rearing expenditures, then it may be too high.

The Rothbarth methodology is named after the economist, Irwin Rothbarth, who developed it. It is considered a marginal cost approach—that is, it considers how much more is spent by a couple with

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<sup>20</sup> A layperson's description of how the Rothbarth estimator understates actual child-rearing expenditures is also provided in Lewin/ICF (1990) on p. 2-29. Lewin/ICF. (1990). *Estimates of Expenditures on Children and Child Support Guidelines*. Report to U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation. Fairfax, VA

<sup>21</sup> Betson, David M. (1990). *Alternative Estimates of the Cost of Children from the 1980–86 Consumer Expenditure Survey*. Report to U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation. University of Wisconsin Institute for Research on Poverty, Madison, Wisconsin.

<sup>22</sup> In statistics, the term “robust” means the statistics yield good performance that are largely unaffected by outliers or sensitive to small changes to the assumptions.

<sup>23</sup> Lewin/ICF. (1990). *Estimates of Expenditures on Children and Child Support Guidelines*. Report to U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation. Fairfax, VA.

children than a childless couple of child-rearing age. To that end, the methodology compares expenditures of two sets of equally well-off families: one with children and one without children. The difference in expenditures between the two sets is deemed to be child-rearing expenditures. The Rothbarth methodology relies on expenditures for adult goods to determine equally well-off families.<sup>24</sup>

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#### Consumer Expenditure (CE) Survey: Overview and Changes over Time

The BR studies and other studies of child-rearing expenditures rely on the Consumer Expenditure (CE) survey conducted by the U.S. Bureau of Labor Statistics (BLS). The CE is a comprehensive and rigorous survey with over a hundred-year history.<sup>25</sup> Today, the CE surveys about 6,000 households a quarter on hundreds of expenditures items.<sup>26</sup> Households stay in the survey for four quarters, yet households rotate in and out each quarter. The primary purpose of the CE is to calibrate the market basket used to measure changes in price levels over time. The sampling of the CE is not designed to produce state-specific measurements of expenditures.<sup>27</sup> To expand the CE so it could produce state-specific measurements would require a much larger sample and other resources and would take several years. Instead, economists typically pool multiple data years to obtain an adequate sample size.

One concern is the impact that the COVID-19 pandemic has on child-rearing expenditures. The pandemic began Spring 2020, and the most current estimates consider CE data through 2019. Consumer expenditures in general (not just child-rearing expenditures) declined 9.8 percent in the first year of the pandemic and were 15.7 percent higher in the second year.<sup>28</sup> The change varied considerably by expenditure item. For example, there was more variation in the amount expended for food away from home in the two years than there was for healthcare. It may take years to reach a new normal (assuming that will be achieved) and to collect and analyze the data before the impact is known. As is, updated estimates of child-rearing expenditures are usually initiated by one state (e.g., the BR5 measurements were funded by Arizona, and the BR4 measurements were funded by California). This process can further delay when new estimates become available.

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#### Other Studies of Child-Rearing Expenditures

Exhibit 3 shows the results of various studies of child-rearing expenditures. Only the Betson-Rothbarth, Betson-Engel, and USDA are in use. In addition, almost a dozen of states still rely on older studies

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<sup>24</sup> Specifically, Betson uses adult clothes, whereas others applying the Rothbarth estimator use adult clothing, alcohol, and tobacco regardless of whether expenditures are made on these items. Betson (1990) conducted sensitivity analysis and found little difference in using the alternative definitions of adult goods.

<sup>25</sup> U.S. Bureau of Labor Statistics (BLS). (June 28, 2018). *130 Years of Consumer Expenditures*. Retrieved from <https://www.bls.gov/cex/csxhistorical.htm>.

<sup>26</sup> There are two components to the CE survey. Each starts with a sample of about 12,000 households. One component is a diary survey, and the other is an interview survey. The results from the interview survey are the primary data source for measuring child-rearing expenditures. Nonetheless, the BLS uses both components to cross check the quality of the data. More information can be found at U.S. Bureau of Labor Statistics. (n.d.). *Handbook of Methods: Consumer Expenditures and Income*. p. 16. Retrieved from <https://www.bls.gov/opub/hom/cex/pdf/cex.pdf>.

<sup>27</sup> The BLS has recently begun conducting statewide surveys in the five largest states.

<sup>28</sup> U.S. Bureau of Labor Statistics. (May 2022). *Changes to Consumer Expenditures during the Covid-19 Pandemic*. Retrieved from <https://www.bls.gov/opub/ted/2022/changes-to-consumer-expenditures-during-the-covid-19-pandemic.htm>.

conducted in the 1980s.<sup>29</sup> It shows the USDA amounts are generally more than the Betson-Rothbarth estimates.

**Exhibit 3: Comparison of Economic Estimates of Child-Rearing Expenditures**

Economic Methodology	Economist and Data Years	Average Child-Rearing Expenditures as a Percentage of Total Expenditures		
		1 Child	2 Children	3 Children
Rothbarth	<b>Betson/Rothbarth (BR)</b>			
	2013–2019	24.9%	38.4%	47.0%
	2004–2009	23.5%	36.5%	44.9%
	1998–2004	25.2%	36.8%	43.8%
	1996–1998	25.6%	35.9%	41.6%
	1980–1986	24.2%	34.2%	39.2%
	<b>Rodgers/Replication of Betson<sup>30</sup></b>			
	2004–2009 CE	22.2%	34.8%	43.2%
	<b>Rodgers<sup>31</sup></b>			
	2000–2015 CE	19.2%	24.1%	30.8%
	2004–2009 CE	21.5%	24.4%	33.4%
	2000–2011	21.0%	25.0%	31.0%
	<b>Florida State University<sup>32</sup></b>			
	2013–2019	21.3%	33.4%	41.4%
	2009–2015	24.9%	38.3%	46.9%
<b>USDA</b>	<b>USDA<sup>33</sup></b>			
	2011–2015 CE	26.0%	39.0%	49.0%

#### *USDA Study*

The USDA first measures expenditures for seven different categories (i.e., housing, food, transportation, clothing, healthcare, childcare and education, and miscellaneous) and then sums them to arrive at a total measurement of child-rearing expenditures. Some of the methodologies use a pro rata approach, which is believed to overstate child-rearing expenditures. The USDA reports its estimates on an annual basis for one child in a two-child household. The USDA provides measurements for the United States as a whole and as four regions: the South, Midwest, Mid-Atlantic, and West. The USDA also produces measurements for rural areas and single-parent families. These measurements are for the nation as whole and not provided individually by region.

<sup>29</sup> van der Gaag, Jacques. (1981). *On Measuring the Cost of Children*. Discussion Paper 663-81. University of Wisconsin Institute for Research on Poverty, Madison, Wisconsin; and Espenshade, Thomas J. (1984). *Investing in Children: New Estimates of Parental Expenditures*. Urban Institute Press: Washington, D.C.

<sup>30</sup> Rodgers, William M. (2017). “Comparative Economic Analysis of Current Economic Research on Child-Rearing Expenditures.” In Judicial Council of California, *Review of Statewide Uniform Child Support Guideline 2017*. San Francisco, CA. Retrieved from <http://www.courts.ca.gov/documents/lr-2018-JC-review-of-statewide-CS-guideline-2017-Fam-4054a.pdf>.

<sup>31</sup> Rodgers (2017). *Ibid*.

<sup>32</sup> Norribin, Stefan C., et al. (Nov. 2021). Review and Update of Florida’s Child Support Guidelines. Retrieved from <http://edr.state.fl.us/Content/special-research-projects/child-support/ChildSupportGuidelinesFinalReport2021.pdf>. The third quintile is used for the average in the Florida studies because they do not report an average. Rather, they report quintiles. The third is the midpoint.

<sup>33</sup> Lino, Mark, et al. (2017). *Expenditures on Children by Families, 2015*. Misc. Pub. No. 1528-2015. U.S. Dept. of Agriculture, Center for Nutrition & Policy Promotion, Washington, D.C. Retrieved from [https://cdn2.hubspot.net/hubfs/10700/blog-files/USDA\\_Expenditures%20on%20children%20by%20family.pdf?t=1520090048492](https://cdn2.hubspot.net/hubfs/10700/blog-files/USDA_Expenditures%20on%20children%20by%20family.pdf?t=1520090048492).

The USDA amounts also vary by age of the child and household income. The most recent USDA measurements are from expenditures data collected in 2011–2015 (see Exhibit 4). This is the amount for one child in two-child households. If there is only one child in the household, the USDA found the amounts, as shown in, should be increased by 27 percent. If there are three or more children in the household, the amounts should be adjusted by the number of children multiplied by 76 percent. The amounts in the exhibits include expenditures for the child’s healthcare and childcare expenses.

**Exhibit 4: Findings from the USDA Study**

		Married-Couple Families		Single-Parent Families (overall US)
		Urban (overall U.S.)	Rural Areas (overall U.S.)	
Low Income (less than \$59,200 gross per year)	Child-rearing \$	\$9,330–\$9,980/year	\$7,650–\$8,630/year	\$8,800–\$10,540/year
	Average Gross Income	\$36,300	\$36,100	\$24,400
Middle Income (more than \$59,200 per year and less than \$107,400 for Urban and Rural Only)	Child-rearing \$	\$12,350–\$13,900/year	\$10,090–\$11,590/year	\$16,370–\$20,190/year
	Average Gross Income	\$81,700	\$79,500	\$99,000
High Income (more than \$107,400 for Urban and Rural only)	Child-rearing \$	\$19,380–\$23,380/year	\$14,600–\$17,000/year	
	Average Gross Income	\$185,400	\$156,800	

One salient finding (as shown in Exhibit 4) that is pertinent to addressing concerns about using expenditures data from intact families as the basis of state child support guidelines is that single-parent families with low income and married-couple families with low income devote about the same amount to child-rearing expenditures. It should also be noted that the amounts for middle and high incomes for single-parent families are not separated because there are too few high-income, single-parent families from which to produce measurements. More single-parent families with children live in poverty than married-couple families with children.

The USDA study partially forms the basis of the Minnesota child support guidelines and the Maryland schedule amounts at upper incomes. The USDA study does not form the basis of any other state’s guidelines besides Maryland and Minnesota.

#### Florida State University Study

The Florida researchers estimated child-rearing expenditures using both the Rothbarth approach and another marginal cost approach developed by Ernest Engel from 2013–2019 CE data.<sup>34</sup> They reported their estimates as a percentage of consumption (total household expenditures) for five quintiles of income. Using the Rothbarth methodology, they ranged from 21.0 to 21.5 percent for one child, 32.9 to 33.7 percent for two children, and 40.8 to 41.7 percent for three children. Neither Florida nor any other state rely on these measurements as the basis of their guidelines table or formula.

<sup>34</sup> Norribin, Stefan C., et al. (Nov. 2021). Review and Update of Florida’s Child Support Guidelines. Retrieved from <http://edr.state.fl.us/Content/special-research-projects/child-support/ChildSupportGuidelinesFinalReport2021.pdf>.



### Comanor, Sarro, and Rodgers (CSR) Study

Comanor, Sarro, and Rodgers (CSR) claim to estimate child-rearing expenditure directly.<sup>35</sup> They examine couples with and without children, match them based on their gross incomes, and claim that the differences in their expenditures are attributed to child-rearing expenditures. They apply this methodology to 2006–2009 expenditure data. The criticisms of the CSR approach are the data are old; they appeared to miss some quarters of expenditures; their estimates cannot be used to transition across low, middle, and high income ranges (because they estimate expenditures for these income ranges separately and did not estimate how much childrearing expenditures increase with each additional dollar in gross income between these income ranges); they did not include the cost of the child’s healthcare and the cost of entertainment and miscellaneous expenses; they produce near poverty levels; and there are numerous issues with their methodology. One methodological issue is they use gross income to equate equally well-off households, but research finds that married fathers with children generally earn more so this can create some bias. Also, they estimate each expenditure category separately so do not control for substitution effects; that is, a family may spend less on entertainment to increase their housing expenditures.

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### Factor 3: Change in Price Levels

The existing schedule is based on price levels from March 2015. The most current price level data available when this report was written was from October 2022. Prices have increased by 26.2 percent between the two time periods. This does not mean a 26.2 percent increase in the schedule amounts because some of the increase is offset by incomes that have also increased over time.

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### Factor 4: Income Range Considered

The lowest income considered in a child support schedule is a policy decision, but typically relates to the self-support reserve (SSR) among states using a SSR. Often, states with a SSR provide a minimum order for the first income band and set the income range for the first income band at zero to the SSR. The schedule that was in effect prior to the existing schedule relied on a net-income based SSR that was approximately equivalent to \$8,400 gross per year. That is why the existing schedule starts at \$8,400 gross per year.

The highest income considered in a child support schedule usually relates to the highest income for which there is a significant sample size. Some states extend it to higher incomes. This is usually done by using the amounts at lower incomes to extrapolate to higher incomes. Ohio statute provides that ODJFS extend the schedule to combined annual income of \$300,000 per year. ODJFS provides a schedule to

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<sup>35</sup> Comanor, William, Sarro, Mark, & Rogers, Mark. (2015). “The Monetary Cost of Raising Children.” In (ed.) Economic and Legal Issues in Competition, Intellectual Property, Bankruptcy, and the Cost of Raising Children (*Research in Law and Economics*), Vol. 27. Emerald Group Publishing Limited, pp. 209–51; and Norribin, Stefan C., et al. (Nov. 2021). *Review and Update of Florida’s Child Support Guidelines*. Retrieved from <http://edr.state.fl.us/Content/special-research-projects/child-support/ChildSupportGuidelinesFinalReport2021.pdf>.



incomes just above that: \$336,000 per year. The most current BR estimates allow for it to be extended to \$477,600 per year.

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#### Factor 5: Exclude Healthcare Expenses and Childcare Expenses

The measurements of child-rearing expenditures cover *all* child-rearing expenditures, including childcare expenses and the out-of-pocket healthcare expenses for the child. This includes out-of-pocket insurance premium on behalf of the child and out-of-pocket extraordinary, unreimbursed medical expenses such as deductibles. These expenses are widely variable among cases (e.g., childcare expenses for an infant are high, and there is no need for childcare for a teenager). Instead of putting them in the schedule, the actual amounts of the expenses are or can be addressed on a case-by-case basis within the guidelines. To avoid double-accounting in the schedule, these expenses are subtracted from the measurements when developing the updated schedule. Appendix A provides more technical details on this adjustment.

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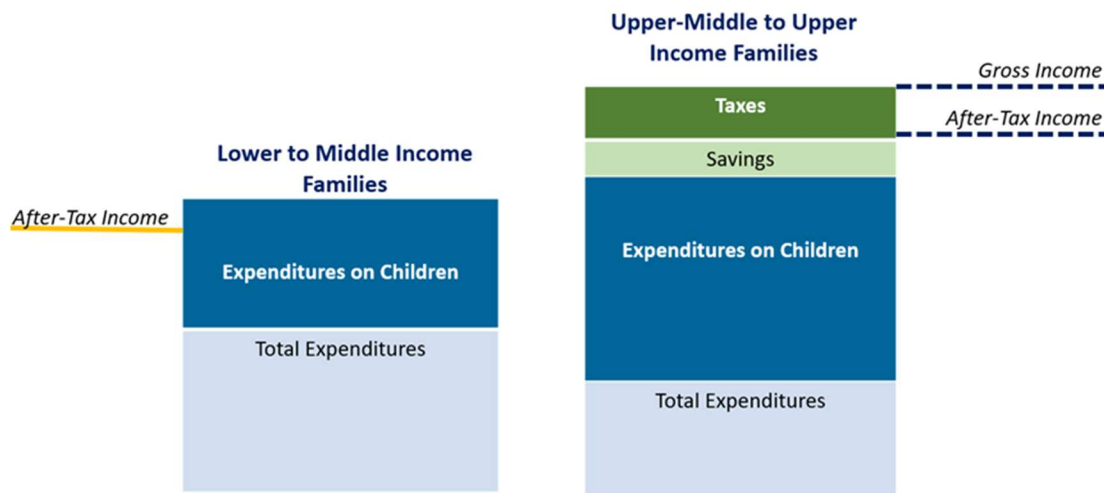
#### Factor 6: Spending More/Less After-Tax Income

The need for this conversion is illustrated by Exhibit 5 that shows some families spend more or less than their income. Betson reports the measurements of child-rearing expenditures as a percentage of total expenditures. Thus, they must be converted from a percentage of total expenditures to a gross-income basis because the child support schedule relates to gross income. This is a two-step process. The first step is converting expenditures to net income.

The conversion was done by taking the expenditures-to-income ratio for the same subset of families used to develop the measurements of child-rearing expenditures for both the existing and proposed child support schedules. The ratios from the most recent BR5 study are shown in Appendix A, as well as an example of how the conversion is made. An exception is made at lower incomes, because as shown in Exhibit 5, they spend more than their after-tax income on average.

This conversion method is common among most income shares guidelines. The only known exception is that the District of Columbia assumes that all after-tax income is spent and, hence, makes no adjustment. (This results in larger schedule amounts that become progressively larger as income increases.)

Exhibit 5: Relationship of Income to Expenditures



#### Factor 7: Adjust Federal and State Income Taxes

After the BR measurements of child-rearing expenditures are converted to after-tax income as described above, then they are converted to gross income. This is because the schedule considers the gross incomes of the parties. For both the existing and updated schedules, the conversion to gross income relies on the federal withholding formula<sup>36</sup> and state income tax rates.<sup>37</sup> The federal withholding formula also considers FICA. The Social Security and Medicare tax is 6.2 percent for incomes up to \$147,000 per year. Above that level, the Medicare tax of 1.45 percent applies. In addition, the 0.9 percent additional Medicare tax for incomes above \$200,000 per year is also considered.

Using federal and state income tax withholding formulas and assuming all income is taxed at the rate of a single tax filer with earned income is a common assumption among most states and the assumption underlying the existing Ohio schedule/statutory formula. Most alternative federal tax assumptions would result in more after-tax income—hence, higher schedule amounts. For example, the District of Columbia assumes the tax-filing status is for a married couple claiming the number of children for whom support is being determined. The District used this assumption prior to 2018 tax reform that eliminated the federal tax allowance for children and expanded the federal child tax credit from \$1,000 per child to \$2,000 per child and higher for tax year 2021. The 2018 federal tax changes are scheduled to expire in 2025.

Since the income conversion assumes single tax filing status, there is no adjustment for the child tax credit or the Earned Income Tax Credit (EITC). The child tax credit would be impossible to include in the schedule since it applies to one parent and that parent's income must be within a certain range to receive the full child tax credit and another range to receive a partial child tax credit (which the IRS calls the additional child tax credit). In contrast, the schedule considers the combined gross income of the

<sup>36</sup> IRS Publication 15-A: Federal Income Tax Withholding Methods: 2022. Retrieved from <https://www.irs.gov/pub/irs-pdf/p15.pdf>.

<sup>37</sup> Ohio Department of Taxation. (2022.) Employer Withholding. Retrieved from <https://tax.ohio.gov/help-center/faqs/employer-withholding/employer-withholding#:~:text=The%20rate%20is%20at%20least,other%20than%20salaries%20and%20wages.>

parents. Say the combined income of the parents is \$150,000 per year. If the parents have equal incomes (\$75,000 per year), either parent's income would make them income-eligible for the full child tax credit. Say, however, that the paying-parent's income is \$150,000 and the other has no income, the parent without income would not be income-eligible for the child tax credit. The EITC is not considered because it is a means-tested program. Most states do not consider mean-tested income to be income available for child support.

The pro of considering an alternative tax assumption such as assuming the tax-filing status is married better aligns with the economic measurements of child-rearing expenditures because the measurements consider households in which the parents and children live together, so they would probably file as a married couple. They also could be set up to include the federal child tax credit, the additional child tax credit, the earned income tax credit, or a combination of these child-related tax credits. This would increase the schedule amounts. The cons are that this would be a change in the previous assumption that is not necessarily justifiable and may not be consistent with current practices.

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#### Factor 8: Incorporate Low-Income Adjustment

Federal regulation (45 C.F.R. § 302.56 (c)(1)(ii)) requires states to consider the subsistence needs of the paying-parent.

Takes into consideration the basic subsistence needs of the noncustodial parent (and at the State's discretion, the custodial parent and children) who has a limited ability to pay by incorporating a low-income adjustment, such as a self- support reserve or some other method determined by the State; . . . .

The Ohio low-income adjustment is incorporated into the schedule and part of the statutory formula. Statute directs ODJFS to update it for the most current federal poverty guidelines level for one person as part of its quadrennial update. Ohio's low-income adjustment consists of three components:

- A self-support reserve (SSR);
- A sliding scale minimum order for incomes below the SSR; and
- A phase-out formula.

The parameters of a low-income adjustment are policies decisions. Ohio's SSR of 116 percent of the FPG is in line with the amounts of other states. Ohio's minimum order of \$960 per year (\$80 per month) is higher than the minimum order of most states (\$50 per month is common). Ohio's phase-out formula is more generous than most states. The statutory formula provides a phase-out using the minimum of 30 percent of the difference between the parent's income and the SSR, and the BR-based amount. Exhibit 6 shows the incomes that the Ohio low-income adjustment phases out. Exhibit 6 also shows the phase-out of an alternative schedule developed for comparison purposes. It relies on the statutory minimum order and SSR, but higher percentage for the phase-out: 31 to 36 percent depending on the number of children (i.e., 31% for one child, 32% for two children and so forth till 36% for six children).

**Exhibit 6: Annual Income Where the Low-Income Adjustment (SSR) Phases Out**

	1 Child	2 Children	3 Children	4 Children	5 Children	6 Children
Existing	\$32,400	\$60,600	\$73,800	\$87,600	\$99,000	\$104,440
Updated	\$42,600	\$80,400	\$91,200	\$114,000	\$142,200	\$162,000
Updated with Alternative Low-Income Adjustment	\$34,800	\$70,800	\$79,800	\$81,600	\$88,200	\$100,200

**Factor 9: Other Adjustments**

Many states with average incomes or a cost-of-living that differ remarkably from the national average adjust the BR measurements, which are based on national data. Arkansas, Kentucky, Maryland, Nebraska, and New Mexico use their “price parity” to make the adjustment. Developed and measured by the U.S. Bureau of Economic Analysis, price parity measures how much a state or region’s prices are below or above the national average. A price parity above 100 indicates above-average prices and a price parity below 100 indicates below-average prices. Ohio’s 2020 price parity is 91.7.<sup>38</sup> This can be used to justify an 8.3 percent reduction to the Betson estimates that are based on national data. This is considered in the alternative schedule.

The adjustment for price parity is arguable. Other states with price parities below 100 have justified not making the adjustment because of variations within the state, the price parity index tends to underestimate housing costs, the state uses the Rothbarth estimator and the Rothbarth estimator understates actual child-rearing expenditures, and for other reasons. One concern is using 2020 price parity given recent inflation, particularly increases in housing prices, which is the largest expenditure item for children. The COVID-19 pandemic upset the housing market for various reasons including an outmigration from densely populated areas to less densely populated areas and a migration of remote workers to where they wanted to live. It is still unclear how this affected Ohio’s prices. Of particular concern is whether Ohio’s changes in housing prices were more or less than the change in U.S. housing prices on average. The existing Ohio schedule is not adjusted for Ohio price parity. Historically, the Midwest region use to track the national average in most economic measures. Recent housing market changes have widened the gap between housing prices across the nation, where the Midwest has become more affordable than other places.

#### IMPACT OF UPDATING SCHEDULE FOR NEW BR STUDY AND OTHER FACTORS

The comparisons consider four schedules:

1. Ohio’s existing schedule;

<sup>38</sup> U.S. Bureau of Economic Analysis. (2021). *2020 Regional Price Parities by State (US = 100)*. Retrieved from <https://www.bea.gov/data/prices-inflation/regional-price-parities-state-and-metro-area>.

2. An updated schedule using the statutory formula;
3. An updated schedule using the new BR measurements, current prices, current federal and state income taxes and FICA, and 2022 federal poverty guidelines; and
4. An alternative schedule that is identical to Schedule #3 except it is adjusted for Ohio's price parity and includes the alternative SSR phase-out.

Schedule #3 was prepared by ODJFS using the statutory formula and March 2022 price levels for informational purposes only. In 2023, ODJFS will update it for 2023 prices. Schedule #1 and Schedule #2 are based on the same economic data. Schedules #3 and #4 consider updated economic data. The key data differences between Schedules #1 and #2 and Schedules #3 and #4 are that Schedules #3 and #4 are based on:

- **The most current measurements of child-rearing expenditures** (i.e., a study by Professor by David Betson published in 2021 from expenditure data collected in 2013–2019,<sup>39</sup> while Schedules #1 and #2 also use a Betson study that relied on same economic methodology to separate child-rearing expenditures from total household expenditures from older expenditures data (i.e., data collected in 2004-2009);
- **Current price levels (i.e., October 2022)** while Schedules #1 and #2 are based on older price levels;<sup>40</sup>
- **2022 federal and state income taxes and FICA** while Schedules #1 and #2 are based on older tax rates; and
- **2022 federal poverty guidelines (FPG) for the self-support reserve**, while Schedules #1 and #2 are based on an older FPG.

Exhibit 7 show the average and median percentage differences between) Schedule #1 (existing) and Schedule #3 (updated for more current data). The negative changes are due to the update of the SSR to the 2022 FPG. The maximum increases are generally at higher incomes.

**Exhibit 7: Dollar and Percentage Difference between Schedule #1 (existing) and Schedule #3 (updated for more current data) by Number of Children**

	1 Child		2 Children		3 Children		4 Children		5 Children		6 Children	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
Mean	\$3,761	23%	\$5,841	23%	\$6,694	22%	\$5,077	14%	\$5,284	13%	\$5,273	11%
Median	\$3,381	22%	\$4,863	21%	\$5,493	21%	\$5,652	19%	\$6,155	17%	\$6,009	15%
Minimum	\$859	12%	\$3,065	17%	\$2,303	11%	-\$595	-15%	-\$595	-14%	-\$595	-12%
Maximum	\$6,593	30%	\$9,538	30%	\$11,018	29%	\$12,306	29%	\$13,538	29%	\$14,715	29%

<sup>39</sup> Betson, David M. (2021). "Appendix A: Parental Expenditures on Children: Rothbarth Estimates." In Venohr, Jane, & Matyasik, Savannah. (Feb. 23, 2021). *Review of the Arizona Child Support Guidelines: Findings from the Analysis of Case File Data and Updating the Child Support Schedule*. Report to the Arizona Supreme Court Administrative Office of the Courts. Retrieved from <https://www.azcourts.gov/Portals/74/FCIC-CSGR/SupplementalPacket-030121-FCIC-CSGRS.pdf?ver=2021-02-26-161844-187>.

<sup>40</sup> This was the most current price level available when the updated schedule was developed.

Exhibit 8 show the average and median percentage differences between Schedule #1 (existing) and Schedule #4 (updated for more current data, price parity, and alternative phase-out of SSR). The patterns are very similar to the comparisons between Schedules #1 and #3 except the differences are smaller due to the adjustment for Ohio price parity. Another notable difference is the maximum percentage increase for five and six children under Schedule #4 results from the alternative phase-out of the SSR. The maximum dollar increase for five and six children is at high incomes, however. In other words, the maximum dollar increase and maximum percentage increase may not occur at the same income level.

**Exhibit 8 : Difference between Schedule #1 (existing) and Schedule #4 (updated for more current data, price parity, and alternative phase-out of SSR) by Number of Children**

	1 Child		2 Children		3 Children		4 Children		5 Children		6 Children	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
Mean	\$1,897	11%	\$2,645	10%	\$2,926	10%	\$3,313	10%	\$3,783	11%	\$4,293	12%
Median	\$1,631	11%	\$2,242	11%	\$2,511	10%	\$2,817	12%	\$3,215	13%	\$3,644	14%
Minimum	-\$420	-30%	-\$840	-47%	-\$1,008	-51%	-\$1,092	-53%	-\$1,176	-55%	-\$1,260	-57%
Maximum	\$4,240	19%	\$6,065	19%	\$6,953	18%	\$7,765	18%	\$8,543	30%	\$9,285	34%

#### Graphical Comparisons

Exhibit 9, Exhibit 10, and Exhibit 11 compare the amounts of Schedules #1, #2, #3, and #4 for one, two, and three children. The patterns for four and more children would be similar to that of three children. Based on data from other states and national data, the vast majority of child support orders are for one and two children.

The exhibits also include amounts from two alternative economic studies: the USDA (2017) study<sup>41</sup> and a study by a University of California professor, Dr. William Comanor and his colleagues, Mark Sarro and Mark Rogers (2015).<sup>42</sup> Both studies were updated to 2022 price levels and exclude childcare and the child's healthcare expenses. The expenditures data underlying the USDA study is from 2011–2015. The expenditures data underlying the Comanor, Sarro, and Rogers (CSR) study is 2004–2009. Two states use the USDA study, and no state uses the CSR study. Most states rely on a Betson-Rothbarth study.

Several observations can be made from the graphical comparisons.

- Schedule #2 (the statutory update using March 2022 price levels) would result in small changes from Schedule #1 (existing schedule). The statutory update will not be conducted until 2023, however. Consequentially, it will result in larger changes than what is shown when the most current price index is considered.

<sup>41</sup> Lino, Mark, et al. (2017). *Expenditures on Children by Families, 2015*. Misc. Pub. No. 1528-2015. U.S. Dept. of Agriculture, Center for Nutrition & Policy Promotion, Washington, D.C. Retrieved from [https://cdn2.hubspot.net/hubfs/10700/blog-files/USDA\\_Expenditures%20on%20children%20by%20family.pdf?t=1520090048492](https://cdn2.hubspot.net/hubfs/10700/blog-files/USDA_Expenditures%20on%20children%20by%20family.pdf?t=1520090048492).

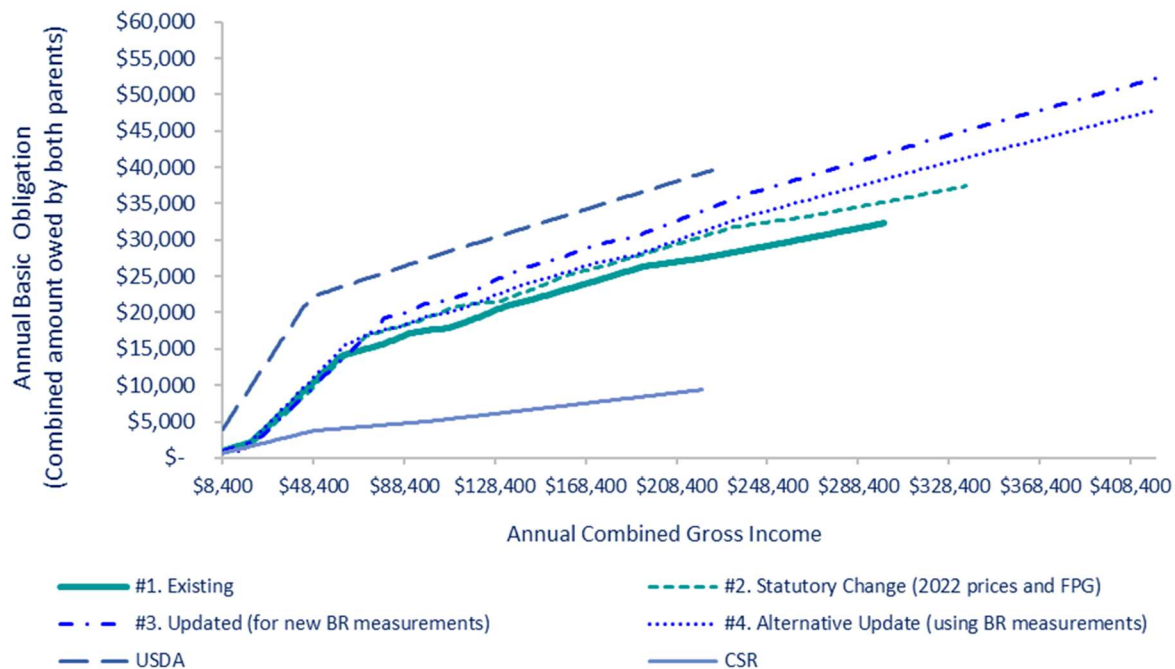
<sup>42</sup> Comanor, William, Sarro, Mark, & Rogers, Mark. (2015). "The Monetary Cost of Raising Children." In (ed.) Economic and Legal Issues in Competition, Intellectual Property, Bankruptcy, and the Cost of Raising Children (*Research in Law and Economics*), Vol. 27). Emerald Group Publishing Limited, pp. 209–51.

- Schedule #2 (the statutory update) would be less than Schedule #3 (schedule updated for the new BR measurements, and changes in payroll taxes). However, Schedule #2 tracks very closely to Schedule #4 (the schedule updated for the new BR measurements that is adjusted for Ohio's price parity). This suggests that the statutory formula is appropriate for the next periodic update. This is true even though the statutory formula is based on an older BR study and earlier payroll tax rates.
- There is little change at low incomes (i.e., incomes below about \$50,000 to \$100,000 per year depending on the number of children) between Schedule #1 (existing) and the other schedules (i.e., Schedules #2, #3, and #4). This is because only the SSR is updated at very low incomes. It increased from \$13,780 to \$15,764 per year based on the FPG increase.
- Once the low-income adjustment is no longer applied, Schedule #3 (updated schedule) is more than Schedule #1 (existing schedule), and the difference enlarges with more income.
- Schedule #4 (alternative, updated schedule) is slightly less than the Schedule #3 (updated schedule for more current data only with no change in assumptions). This is because it considers Ohio's price parity.
- Schedule #1 (existing schedule) stops at combined gross income of \$300,000 per year (\$336,000 in the OCS manual). Due to more current data, Schedules #3 and #4 (updated schedules) can go up to combined gross incomes just over \$400,000 per year.
- The USDA schedule is consistently the highest. The USDA has insufficient information to address combined incomes above about \$200,000 gross per year.
- The Comanor, Sarro, Rogers (CSR) schedule is consistently the lowest. There is insufficient information in the CSR study to address incomes above about \$200,000 gross per year.
- There is an anomalous result for three children. Schedule #3 (alternative, updated schedule) is more than Schedule #4 (updated for more current economic data only and no change in assumptions) due to the alternative change to the SSR phase-out.

**Exhibit 9: Comparison of Basic Obligations: One Child**



**Exhibit 10: Comparison of Basic Obligations: Two Children**





**Exhibit 11: Comparison of Basic Obligations: Three Children**



There are three major factors that contribute to the increase using the updated BR measurements (which is the basis of Schedules #3 and #4):

- Recent inflation;
- More current Betson-Rothbarth estimates indicate higher amounts at high incomes; and
- Federal tax reform that became effective in 2018 increased the amount of after-tax income available for expenditures. The increase is more at higher incomes.

The reduced income tax rates will expire in 2025.

#### Comparisons of Existing to Proposed Using Case Scenarios

Exhibit 12 shows the case scenarios examined. The first three scenarios assume minimum wage earnings. The cases vary by hours worked and whether the receiving party has income. The median earnings of Ohio workers by highest educational attainment and gender are the basis of case scenarios 4–8. Earnings are reported for five levels of educational attainment and gender for Ohio workers by the U.S. Census 2021 American Community Survey. Male median earnings are used as the incomes of the paying-parent in the scenarios and female median earnings are used for the receiving party's income. The last two scenarios consider high incomes. There are no adjustments to base support or deductions from income for special factors such as other child support orders, ordinary medical expenses, childcare expenses, or substantial shared physical custody.

**Exhibit 12: Case Scenarios Used for Comparisons**

Case Scenario	Annual Income of Paying-Parent	Annual Income of Receiving Party
1. 2023 Minimum wage earner (\$10.10 per hour) at 35 hours per week	\$18,282	\$0
2. 2023 Minimum wage earner (\$10.10 per hour) at 35 hours per week	\$18,282	\$18,282
3. 2023 Minimum wage earners (\$10.10 per hour) at 40 hours per week	\$21,008	\$21,008
4. Parent's earnings are equivalent to median earnings of Ohio workers with less than a high school education	\$32,247	\$21,337
5. Parent's earnings are equivalent to median earnings of Ohio workers whose highest educational attainment is a high school degree or GED	\$40,889	\$27,912
6. Parent's earnings are equivalent to median earnings of Ohio workers whose highest educational attainment is some college or an associate's degree	\$50,174	\$34,340
7. Parent's earnings are equivalent to median earnings of Ohio workers whose highest educational attainment is a college degree	\$73,592	\$51,266
8. Parent's earnings are equivalent to median earnings of Ohio workers whose highest educational attainment is a graduate degree	\$99,579	\$68,626
9. High earners (combined income = \$250,000)	\$125,000	\$125,000
10. High earners (combined income = \$300,000)	\$200,000	\$100,000

Exhibit 13, Exhibit 14, and Exhibit 15 show the comparisons for one, two and three children separately. The patterns for four and more children would be similar to those of three children. The comparisons also consider the guidelines of neighboring states of Michigan and Pennsylvania. Although the Michigan guidelines are based on an old study of child-rearing expenditures, Michigan has, due to inflation, updated its percentages in every guidelines review. Pennsylvania updated its guidelines in early 2021 (before inflation became a major issue) using the most current Betson-Rothbarth estimates. Indiana has never updated the bulk of its schedule, Kentucky is adjusted for its below-average income (and has income lower than Ohio), and West Virginia just reviewed its guidelines and is proposing major changes.

Pennsylvania includes \$250 per child per year for ordinary, unreimbursed medical expenses in its schedule. Michigan does not. Instead, Michigan has a separate table for unreimbursed medical expenses like Ohio does. Pennsylvania provides an SSR equal to the 2020 FPG for one person (\$12,760 per year). Michigan does not use a SSR. Its low-income adjustment consists of a 10 percent of income order if income is below the 2020 poverty level (\$12,756 per year) and a transition formula for incomes above that.

**Exhibit 13: Guidelines Amounts for One Child (Shading indicates low-income adjustment applied)**

Col. A.	Col. B	Col. C	Col. D	Col. E	Col. F	Col. G
Case Scenario	Schedule #1: Existing	Schedule #2: Statutory Update based on March 2022 prices	Schedule #3: Updated (using current BR)	Schedule #4: Alternative Updated (using current BR)	MI	PA
1. Minimum wage earner (35 hrs) and custodian income = \$0	\$1,440	\$1,440	\$1,440	\$1,332	\$3,763	\$3,636
2. Minimum wage earners (35 hrs)	\$1,038	\$1,038	\$1,038	\$1,332	\$3,763	\$3,636
3. Minimum wage earners (40 hrs)	\$2,166	\$1,590	\$1,590	\$2,262	\$4,446	\$5,022
4. Parents with less than high school degree	\$5,189	\$5,372	\$5,921	\$5,430	\$6,087	\$6,366
5. High school graduates	\$5,881	\$6,484	\$7,114	\$6,524	\$6,994	\$7,019
6. Parents with some college or associate degree	\$6,500	\$7,138	\$7,784	\$7,138	\$7,981	\$7,747
7. Parents with college degree	\$7,853	\$8,489	\$9,547	\$8,755	\$9,976	\$9,704
8. Parents with graduate degree	\$9,527	\$10,269	\$11,576	\$10,615	\$11,909	\$11,700
9. High earners (combined income = \$250,000)	\$9,919	\$10,950	\$12,746	\$11,688	\$13,240	\$12,900
10. High earners (combined income = \$300,000)	\$14,508	\$15,907	\$18,903	\$17,334	\$19,576	\$18,950

**Exhibit 14: Guidelines Amounts for Two Children (Shading indicates low-income adjustment applied)**

Col. A.	Col. B	Col. C	Col. D	Col. E	Col. F	Col. G
Case Scenario	Schedule #1: Existing	Schedule #2: Statutory Update based on March 2022 prices	Schedule #3: Updated (using current BR)	Schedule #4: Alternative Updated (using current BR)	MI	PA
1. Minimum wage earner (35 hrs) and custodian income = \$0	\$1,920	\$1,920	\$1,920	\$1,344	\$4,011	\$3,672
2. Minimum wage earners (35 hrs)	\$1,920	\$1,920	\$1,920	\$1,344	\$4,011	\$3,672
3. Minimum wage earners (40 hrs)	\$2,220	\$2,220	\$2,220	\$2,304	\$5,349	\$7,584
4. Parents with less than high school degree	\$5,586	\$4,991	\$4,991	\$5,952	\$9,173	\$9,594
5. High school graduates	\$8,106	\$7,511	\$7,511	\$8,640	\$10,576	\$10,508
6. Parents with some college or associate degree	\$9,705	\$10,663	\$11,642	\$10,676	\$12,119	\$11,488
7. Parents with college degree	\$11,688	\$12,613	\$14,092	\$12,922	\$15,342	\$14,318
8. Parents with graduate degree	\$14,168	\$15,265	\$17,040	\$15,626	\$18,270	\$17,120
9. High earners (combined income = \$250,000)	\$14,642	\$16,252	\$18,629	\$17,083	\$20,256	\$19,110

10. High earners (combined income = \$300,000)	\$21,535	\$23,488	\$27,893	\$25,578	\$29,912	\$27,961
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Exhibit 15: Guidelines Amounts for Three Children (Shading indicates low-income adjustment applied)

Col. A.	Col. B	Col. C	Col. D	Col. E	Col. F	Col. G
Case Scenario	Schedule #1: Existing	Schedule #2: Statutory Update based on March 2022 prices	Schedule #3: Updated (using current BR)	Schedule #4: Alternative Updated (using current BR)	MI	PA
1. Minimum wage earner (35 hrs) and custodian income = \$0	\$2,112	\$2,112	\$2,112	\$1,356	\$4,260	\$3,720
2. Minimum wage earners (35 hrs)	\$2,112	\$2,112	\$2,112	\$1,356	\$4,260	\$3,720
3. Minimum wage earners (40 hrs)	\$2,544	\$2,544	\$2,544	\$2,544	\$5,719	\$7,584
4. Parents with less than high school degree	\$5,586	\$4,991	\$4,991	\$6,108	\$10,984	\$11,486
5. High school graduates	\$8,106	\$7,511	\$7,511	\$8,880	\$13,588	\$12,483
6. Parents with some college or associate degree	\$10,986	\$10,391	\$10,391	\$12,048	\$15,573	\$13,516
7. Parents with college degree	\$13,772	\$14,831	\$16,497	\$15,128	\$19,415	\$16,756
8. Parents with graduate degree	\$16,678	\$17,964	\$19,893	\$18,242	\$22,801	\$19,871
9. High earners (combined income = \$250,000)	\$17,105	\$19,096	\$21,582	\$19,791	\$24,857	\$22,464
10. High earners (combined income = \$300,000)	\$25,307	\$27,449	\$32,652	\$29,942	\$36,437	\$32,724

In general, the case scenarios show:

- Schedule #2 (statutory update based on 2022 prices) tracks closely to Schedule #4 (alternative schedule updated for more current BR measurements that is also adjusted for Ohio price parity);
- Increases for each scenario under Schedules #2, #3, and #4 where the low-income adjustment/SSR does not apply (the non-shaded areas);
- The increases become larger as income increases;
- For incomes above where the low-income adjustment/SSR would apply, the amounts based on Schedule #3(updated schedule) track closely to Pennsylvania, which is not surprising since they are based on the same economic study of child-rearing expenditures; and,
- The low-income adjustments of Michigan and Pennsylvania are not as generous as the Ohio adjustment.

## SECTION 3: ANALYSIS OF LABOR MARKET DATA

Federal regulation (45 C.F.R. § 302.56(h)(1)) requires the consideration of:

... labor market data (such as unemployment rates, employment rates, hours worked, and earnings) by occupation and skill-level for the State and local job markets, the impact of guidelines policies and amounts on custodial and noncustodial parents who have family incomes below 200 percent of the Federal poverty level, and factors that influence employment rates among noncustodial parents and compliance with child support orders . . . .

The requirement to review labor market data is directed at informing recommendations for guidelines provisions for income imputation and low-income adjustments. Recent national research found that about one-third (35%) of nonresidential parents not living with one or more of their children under age 21 had incomes below 200 percent of poverty.<sup>43</sup> These low-income nonresident parents were more likely to not work full-time and year-round than moderate- and higher-income nonresident parents were. About a quarter (27%) of low-income, noncustodial parents worked full-time year-round, compared to 73 percent of moderate- and higher-income nonresident parents. An examination of labor market data helps inform why this occurs.

Further, one of the federal requirements adopted in 2018 (which the existing Ohio guidelines meets) centers around considering the actual circumstances of the paying-parent when income imputation is authorized. This includes consideration of the employment opportunities available to the parent given local labor market conditions. The analysis in this section helps explain what employment opportunities are available statewide and locally.

The primary data sources for this section include the Ohio Department of Job and Family Services' Ohio Labor Market Information<sup>44</sup> and the U.S. Bureau of Labor Statistics. Much of this analysis was conducted using October 2022 data. New data on Ohio unemployment rates and labor force numbers will be available when this report is released for publication.

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### Unemployment and Employment Rates and Labor Force Participation

The official measurement of unemployment, known as U-3, includes "all jobless persons who are available to take a job and have actively sought work in the past four weeks."<sup>45</sup> It is measured as a percentage of those in the civilian labor force, which includes employed and unemployed individuals.<sup>46</sup> To be employed, a person must have worked at least one hour as a paid employee or self-employed or been temporarily absent from their job or business or met other criteria. Actively seeking work means

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<sup>43</sup> U.S. Congressional Research Service. (Oct. 2021). *Demographic and Socioeconomic Characteristics of Nonresident Parents*. Retrieved from <https://crsreports.congress.gov/product/pdf/R/R46942>.

<sup>44</sup> Ohio Department of Job and Family Services. (n.d.). Retrieved from <https://ohiolmi.com/>.

<sup>45</sup> U.S. Bureau of Labor Statistics. (n.d.). *Alternative Measures of Labor Underutilization for States, 2021 Annual Averages*. Retrieved from <https://www.bls.gov/lau/stalt.htm>.

<sup>46</sup> U.S. Bureau of Labor Statistics. (Oct. 21, 2021). *Concepts and Definitions*. Retrieved from <https://www.bls.gov/cps/definitions.htm#lfpr>.

contacting an employer about a job opportunity, submitting a job application or résumé, using an employment service, or a similar activity. Persons not in the labor force may not want a job, are not currently available for work, or are available for work but have not looked in the last four weeks and may be a “discouraged worker” (i.e., do not believe a job exists).

As of October 2022, the U.S. unemployment rate (seasonally adjusted) was 3.7 percent, while the Ohio unemployment rate was 4.2 percent.<sup>47</sup> The Ohio unemployment rate (not seasonally adjusted) varied by county. Five counties had unemployment rates above 5.0 percent: 5.2 percent in Cuyahoga County, 5.5 percent in Jefferson County, 5.5 percent in Meigs County, 5.6 percent in Noble County, and 6.1 percent in Monroe County. Four counties had unemployment rates less than 3.0 percent: 2.8 percent in Holmes County, 2.8 percent in Wyandot County, 2.9 percent in Mercer County, and 2.9 percent in Putnam County.<sup>48</sup> The unemployment rate (not seasonally adjusted) also varied slightly among Metropolitan Statistical Areas (MSA): the Weirton-Steubenville MSA had the highest unemployment rate (4.9%), and the Columbus MSA had the lowest unemployment rate (3.5%).<sup>49</sup> All unemployment rates are lower than their April 2020 high, which occurred during the COVID-19 pandemic quarantine. In April 2020, the U.S. seasonally adjusted unemployment rate was 14.7 percent, and the Ohio seasonally adjusted unemployment rate was 16.8 percent.<sup>50</sup>

### Labor Force Participation

As of October 2022, the Ohio civilian labor force (seasonally adjusted) was 5,761,400, with 5,519,800 employed and 241,600 unemployed.<sup>51</sup> The Ohio workforce participation rate (seasonally adjusted) was 61.5 percent as of October 2022. The highest rate in the past two decades was 67.7 percent (November 2006 to May 2007). After that, the Ohio labor force participation rate steadily declined until it reached a low point from August 2015 to October 2015 of 62.4 percent, then increased for a few years to 63.5 percent from December 2019 to January 2020. It declined after that and plummeted with the onset of the COVID-19 pandemic reaching its low as of April 2020 at 59.4 percent.<sup>52</sup> In contrast, the U.S. labor force participation rate (seasonally adjusted) was 62.2 percent as of October 2022. Labor force participation generally declined with the pandemic and has recently risen. For example, the U.S. labor force participation rate was 63.4 percent as of February 2020, which was just before the pandemic began, and plummeted to 60.2 percent as of April 2020.<sup>53</sup>

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<sup>47</sup> Ohio Department of Job and Family Services. (n.d.). *Ohio Labor Market Information: October 2022*. Retrieved from <https://ohiolmi.com/>.

<sup>48</sup> Ohio Department of Job and Family Services. (n.d.). *Ohio Labor Market Information: Unemployment Rankings by County*. Retrieved from <https://ohiolmi.com/Home/LAUS/Ranking>.

<sup>49</sup> Ohio Department of Job and Family Services. (Oct. 2022). *Labor Market Review*. Retrieved from <https://ohiolmi.com/docs/ces/lmr.pdf>.

<sup>50</sup> Ohio Department of Job and Family Services. (May 2020). *Employment Situation Indicators: April 2020*. Retrieved from [https://ifs.ohio.gov/RELEASES/unemp/202005/Ohio-US\\_EmploymentSituation.stm](https://ifs.ohio.gov/RELEASES/unemp/202005/Ohio-US_EmploymentSituation.stm).

<sup>51</sup> Ohio Department of Job and Family Services. (Oct. 2022). *Labor Market Review*. Retrieved from <https://ohiolmi.com/docs/ces/lmr.pdf>.

<sup>52</sup> Federal Reserve of St. Louis. (Nov. 18, 2022). *Labor Force Participation Rate for Ohio*. Retrieved from <https://fred.stlouisfed.org/series/LBSSA39>.

<sup>53</sup> U.S. Bureau of Labor Statistics. (n.d.). *Civilian Labor Force Participation Rate*. Retrieved from <https://www.bls.gov/charts/employment-situation/civilian-labor-force-participation-rate.htm>.

A U.S. Bureau of Labor Statistics study found that about 7 percent of those not in the labor force nationally as of July 2021 were prevented from looking for work because of the pandemic.<sup>54</sup> Other studies find the rebound rates vary by age. For example, workers of retirement age have not returned to the labor force, but very young workers have.<sup>55</sup> In fact, about half of the decline nationally in the labor force is among workers over age 55.

A Brookings Institute report suggests that women dropped from labor force participation to care for young children during the pandemic.<sup>56</sup> The report found a 6 percent drop in the participation rate among women with young children, while the drop was only 4 percent among women and men without young children. It also found a modest association between decreases in female labor force participation and the share of children in virtual or hybrid schooling in a given state. A Federal Reserve study estimates that one-third of the overall decline in the labor force participation rate during the pandemic is attributable to caretaking, but not always parents' caretaking their own minor children.<sup>57</sup>

The relevance to child support is whether these are valid reasons not to impute income to employable parents who are not working. Some state guidelines have provisions that address extreme circumstances that share some similarities to the pandemic. For example, the Louisiana guidelines specifically mention that a party temporarily unable to find work or temporarily forced to take a lower-paying job as a direct result of Hurricanes Katrina or Rita shall not be deemed voluntarily unemployed or underemployed.<sup>58</sup> Similarly, "a natural disaster" is one of the circumstances to be considered to ensure that the paying-parent is not denied a means of self-support or a subsistence level in the Indiana guidelines.<sup>59</sup>

### Other Unemployment Measures

The unemployment rates above reflect the official unemployment rate (the U-3 measurement), which only measures the total percentage of the civilian labor force that is unemployed. The U.S. Bureau of Labor Statistics, however, has developed alternative measures that better reflect all persons who are unemployed, including those who are marginally attached workers (i.e., those who want to work but are discouraged and not looking) and workers employed part-time but who would work full-time if they

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<sup>54</sup> U.S. Bureau of Labor Statistics. (Feb. 16, 2022). *Labor Force Statistics from the Current Population Survey*. Retrieved from <https://www.bls.gov/cps/effects-of-the-coronavirus-covid-19-pandemic.htm>.

<sup>55</sup> Bauer, Lauren, & Edelberg, Wendy. (Dec. 14, 2021). *Labor Market Exits and Entrances Are Elevated: Who Is Coming Back?* Brookings Institute. Retrieved from: <https://www.brookings.edu/blog/up-front/2021/12/14/labor-market-exits-and-entrances-are-elevated-who-is-coming-back/>.

<sup>56</sup> Aaronson, Stephanie, & Alba, Francisca. (Nov. 3, 2021). *The Relationship between School Closures and Female Labor Force Participation during the Pandemic*. Brookings Institute. Retrieved from <https://www.brookings.edu/research/the-relationship-between-school-closures-and-female-labor-force-participation-during-the-pandemic/>.

<sup>57</sup> Montes, Joshua, Smith, Christopher, & Leigh, Isabel. (Nov. 5, 2021). *Caregiving for Children and Parental Labor Force Participation during the Pandemic*. Board of Governors of the Federal Reserve System. Retrieved from <https://www.federalreserve.gov/econres/notes/feds-notes/caregiving-for-children-and-parental-labor-force-participation-during-the-pandemic-20211105.htm>.

<sup>58</sup> Louisiana Revised Statute 9:315.11 C.(1).

<sup>59</sup> Indiana Rules of Court. (amended Jan. 1, 2020). *Guideline 2. Use of the Guidelines Commentary*. Retrieved from [https://www.in.gov/courts/rules/child\\_support/#r3](https://www.in.gov/courts/rules/child_support/#r3).



could. The average Ohio unemployment rate in the fourth quarter of 2021 through the third quarter of 2022, according to this measure (called the U-6), is 7.1 percent; the national rate is also 7.1 percent.<sup>60</sup>

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### Hours Worked and Income Imputation

Hours worked has been used to inform income imputation policies. For example, South Dakota used labor market data on hours worked to reduce a guidelines presumption of a 40-hour work week when income imputation is authorized since labor market data indicates South Dakota workers usually work 35 hours per week. In October 2022, the average work week in Ohio private industries was 34.3 hours. However, it varied by industry:

- Construction: 39.1 hours;
- Manufacturing: 41.4 hours;
- Trade, transportation, and utilities: 34.2 hours;
- Financial activities: 37.1 hours;
- Professional and business services: 35.7 hours;
- Educational and health services: 34.3 hours;
- Leisure and hospitality: 22.6 hours;
- Other services: 33.4 hours.

It also varied by region. The Akron Metropolitan Statistical Area (MSA) had the highest average weekly hours in October 2022 (35.6 hours per week), while the Weirton-Steubenville MSA had the least (31.7 hours).<sup>61</sup>

### Other Factors Affecting Full-Time, Year-Round Work among Low-Wage Earners

There are many factors that contribute to the lack of full-time, year-round work. Some pertain to the employability of a parent, and other factors pertain to the structure of low-wage employment. A national study found that the highest educational attainment of 60 percent of the low-income, nonresident parents was a high school degree or less.<sup>62</sup> Paying-parents also face other barriers to employment. A multisite national evaluation of paying-parents in a work demonstration program provides some insights on this.<sup>63</sup> It found that 64 percent of program participants had at least one employment barrier that made it difficult to find or keep a job. Common employment barriers consisted of problems getting to work (30%), criminal records (30%), and lack of a steady place to live (20%). Other employment barriers noted not having the skills sought by employers, taking care of other family members, health issues, and alcohol or drug problems. Many of the participants also cited mental health issues, but few noted it as being a major barrier to employment.

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<sup>60</sup> U.S. Bureau of Labor Statistics. (Oct. 28, 2022). *Alternative Measures of Labor Underutilization for States: Fourth Quarter of 2021 Through Third Quarter of 2022 Averages*. Retrieved from <https://www.bls.gov/lau/stalt.htm>.

<sup>61</sup> Ohio Department of Job and Family Services. (Oct. 2022). *Labor Market Review*. Retrieved from <https://ohiolmi.com/docs/ces/lmr.pdf>.

<sup>62</sup> U.S. Congressional Research Service. (Oct. 2021). *Demographic and Socioeconomic Characteristics of Nonresident Parents*. Retrieved from <https://crsreports.congress.gov/product/pdf/R/R46942>.

<sup>63</sup> Canican, Maria, Meyer, Daniel, & Wood, Robert. (Dec. 2018). *Characteristics of Participants in the Child Support Noncustodial Parent Employment demonstration (CSPED) Evaluation*, at 20. Retrieved from <https://www.irp.wisc.edu/wp/wp-content/uploads/2019/05/CSPED-Final-Characteristics-of-Participants-Report-2019-Compliant.pdf>.



Low-wage jobs do not always provide consistent hours week to week or an opportunity to work every week of the year. This causes unpredictable and erratic income, which can affect child support compliance. Over half (58%) of national workers are paid hourly.<sup>64</sup> The usual weekly hours are considerably less in some industries (e.g., leisure and hospitality). A Brookings Institute study defines vulnerable workers as those earning less than median earnings and having no healthcare benefits.<sup>65</sup> Most vulnerable workers are concentrated in the hospitality, retail, and healthcare sectors. There is considerable turnover in some of these industries. For example, the leisure and hospitality industry has an annual quit rate of 55.4 percent and a 21.5 percent annual rate of layoffs and discharges.<sup>66</sup> High levels of turnover contribute to periods of non-work that can depress earnings.

The lack of healthcare benefits also contributes to fewer hours, fewer weeks worked, and voluntary and involuntary employment separations. Only one-third of workers in the lowest 10th percentile of wages have access to paid sick time, compared to 78 percent among all civilian workers.<sup>67</sup> For those with access to paid sick time, the average is eight days per year. Similarly, those in the lowest 10th percentile of wages are less likely to have access to paid vacation time: 40 percent have access, compared to 76 percent of all workers. Those with paid vacation time have an average of 11 days per year. Without paid sick time or vacation time, a worker may terminate employment voluntarily or be involuntarily terminated when the worker needs to take time off due to an illness or to attend to personal matters. If a parent without access to paid sick time and paid vacation time did not work for 19 days (which is the sum of the average number of paid sick days and paid vacation days), they would miss about four weeks of work throughout the year.

Another indicator of the economic challenges of low-wage parents is the percentage of households that cannot cover a \$400 emergency expense. A Federal Reserve survey finds that 36 percent of households could not cover a \$400 emergency expense in 2020.<sup>68</sup> Although the Federal Reserve survey does not specifically address child support debt and considers all households and not just those where a household member owes child support, it is a salient finding when considering low-income paying-parents in a vulnerable labor market where automated child support enforcement actions (e.g., driver's license and professional license suspension) are triggered when child support is 30 days past due. The \$400 level in the Federal Reserve study is less than some child support orders.

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<sup>64</sup> Ross, Martha & Bateman, Nicole. (Nov. 2019). *Meet the Low-Wage Workforce*. Brookings Institute. Retrieved from [https://www.brookings.edu/wp-content/uploads/2019/11/201911\\_Brookings-Metro\\_low-wage-workforce\\_Ross-Bateman.pdf](https://www.brookings.edu/wp-content/uploads/2019/11/201911_Brookings-Metro_low-wage-workforce_Ross-Bateman.pdf).

<sup>65</sup> Jund-Mejean, Martina, & Escobari, Marcela. (Apr. 2020). Our employment system has failed low-wage workers. How can we rebuild. Brookings Institute. Retrieved from <https://www.brookings.edu/blog/up-front/2020/04/28/our-employment-system-is-failing-low-wage-workers-how-do-we-make-it-more-resilient/>.

<sup>66</sup> Bahn, Kate, & Sanchez Cumming, Carmen. (Dec. 31, 2020). Improving U.S. Labor Standards and the Quality of Jobs to Reduce the Costs of Employee Turnover to U.S. Companies. Retrieved from <https://equitablegrowth.org/improving-u-s-labor-standards-and-the-quality-of-jobs-to-reduce-the-costs-of-employee-turnover-to-u-s-companies>.

<sup>67</sup> U.S. Bureau of Labor Statistics. (Mar. 2020). *Table 6. Selected Paid Leave Benefits: Access*. Retrieved from <https://www.bls.gov/news.release/ebs2.t06.htm>.

<sup>68</sup> Federal Reserve. (May 2021). *Report on the Economic Well-Being of U.S. Households in 2020*. Retrieved from <https://www.federalreserve.gov/publications/2021-economic-well-being-of-us-households-in-2020-dealing-with-unexpected-expenses.htm>.

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## Low-Skilled Jobs and Employment Opportunities

Low-skilled occupations are generally considered occupations that require a high school education or below and little experience and training. Exhibit 16 shows the six major occupational categories in Ohio as of May 2021 and their median wage and wage at the 25th percentile. Some of the occupations are low pay (e.g., sales and related occupations and food preparation and serving-related occupations). The 25th percentile can be viewed as the likely entry-level wage. The median wage of sales and related occupations was \$14.20 per hour in 2021, while the 25th percentile wage was \$11.04 per hour. The median wage of food preparation and serving-related occupations was \$10.96 per hour in 2020, while the 25th percentile wage was \$10.19 per hour.<sup>69</sup>

Ohio's minimum wage is \$9.30 per hour in 2022 and will be \$10.10 per hour in 2023. A 40-hour workweek every week of the year would yield an annual gross income of \$19,344 in 2022 and \$21,008 per year in 2023.<sup>70</sup>

**Exhibit 16: Wages and Prevalence of Selected Occupations in Ohio in 2021**

	Estimated Employment	Median Wage	25 <sup>th</sup> Percentile
Office and Administrative Support Occupations	674,570	\$18.13	\$14.44
Transportation and Material Moving Occupations	507,580	\$17.70	\$13.90
Production Occupations	466,570	\$18.13	\$14.49
Sales and Related Occupations	457,930	\$14.20	\$11.04
Food Preparation and Serving Related Occupations	429,370	\$10.96	\$10.19
Healthcare Practitioners and Technical Occupations	369,120	\$30.04	\$22.99

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## Factors that Influence Employment Rates and Compliance

Federal regulation requires the consideration of factors that influence employment rates and compliance. There is some older academic research that finds child support can affect employment among paying-parents.<sup>71</sup> Another study finds some weak association of changes in father's earnings with changes in orders among fathers in couples that had their first child support ordered in 2000.<sup>72</sup> There also are many anecdotes of paying-parents who quit working or turn to unreported employment (also called the underground economy) once wages are garnished for child support.

These studies are of limited value for this analysis because they are dated (hence do not consider today's labor market and child support enforcement practices) and not specific to Ohio. The impact of the pandemic on employment may also overshadow other factors. Another issue is that opportunities

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<sup>69</sup> U.S. Bureau of Labor Statistics. (Mar. 31, 2022). *May 2021 State Occupational Employment and Wage Estimates: Ohio*. Retrieved from [https://www.bls.gov/oes/CURRENT/oes\\_OH.htm](https://www.bls.gov/oes/CURRENT/oes_OH.htm).

<sup>70</sup> Ohio Department of Commerce. (Sept. 2022). *Minimum Wage Increase Announced*. Retrieved from <https://com.ohio.gov/about-us/media-center/news/minimum-wage-increase-announced#:~:text=COLUMBUS%2C%20Ohio%20%E2%80%94Ohio%27s%20minimum%20wage,per%20hour%20for%20tipped%20employees>.

<sup>71</sup> Holzer, Harry J. Offner, Paul, & Sorensen, Elaine. (Mar. 2005). "Declining employment among young black less-educated men: The role of incarceration and child support." *Journal of Policy Analysis and Management*.

<sup>72</sup> Ha, Yoonsook, Cancian, Maria, & Meyer, Daniel, R. (Fall 2010). "Unchanging Child Support Orders in the Face of Unstable Earnings." *29 Journal of Policy Analysis and Management* 4, pp. 799–820.

for income from unreported employment are rapidly changing and even more difficult to research. Before the pandemic, it was becoming more common to have multiple jobs where one may be unreported employment and the other may be reported employment. There is also evidence that self-employment has increased since the pandemic began. Modern employment with unreported income includes earnings from Uber and Doordash; streamer services such as Twitch, in which people who “stream” rely on viewer donations; and others. These types of jobs operate under what is considered a “gig economy,” or labor markets that are known for their short-term contracts and freelance jobs in preference to consistent and permanent work. While more is being done to understand these gig economies, the earnings from unreported employment are often inconsistently identified in surveys, exacerbating any attempt to study them within a short period. All of these dynamics limit the ability to isolate the impact that child support may be having at this time.

## SECTION 4: TIMESHARING ADJUSTMENTS

This Section reviews timesharing adjustments in other state child support guidelines, particularly neighboring states, and compares them to Ohio’s approach. It also reviews and summarizes the findings from public comment on the issue. The Section concludes with a summary of factors often considered by states when developing and revising their timesharing formulas.

### BACKGROUND

Adjustments for shared-parenting time are important. Research generally shows that children do better when both parents are in their children’s lives even if the parents live apart.<sup>73</sup> Father involvement can improve a child’s academic success, reduce levels of delinquency, and promote the child’s social and emotional well-being.<sup>74</sup>

#### Court-Ordered Custody/Timesharing and Frequency of Occurrence

National data finds that the father is the nonresidential parent<sup>75</sup> among 80 percent of child support cases.<sup>76</sup> Based on the same 2018 national data, 50 percent of the custodial parents who were supposed to receive child support reported that the other parent had visitation privileges; 31 percent reported that the other parent had joint custody (either legal or physical or both); and 19 percent reported that the other parent had neither visitation privileges or joint custody. Still another data source, a 2016 national survey of custodial parents, found that only 28 percent of custodial parents reported that the noncustodial parent had a legal visitation agreement.<sup>77</sup> (The differences between the statistics from the two studies may rest with whether “visitation privileges” are the same as “legal visitation agreement.” Some parents may have visitation privileges outside a legal agreement.)

According to Ohio’s analysis of case file data conducted for the 2022 child support guidelines review, 59 percent of reviewed orders had sole custody, 24 percent had shared custody, and 2 percent had split custody. For the remaining 15 percent, the data recorder could not tell or did not include a response in the data collection instrument.<sup>78</sup> It may be that there was not a custody determination in these cases because the parents had never married and had never pursued a physical custody order.

<sup>73</sup> For example, see U.S. Department of Health and Human Services, Administration for Children and Families. (n.d.). *Pathways to Fatherhood*. Retrieved from <http://www.acf.hhs.gov/programs/ofa/programs/healthy-marriage/responsible-fatherhood>.

<sup>74</sup> Osborne, Cynthia, & Ankrum, Nora. (Apr. 2015). “Understanding Today’s Changing Families.” *Family Court Review*, Vol. 53, No. 2. pp 221–232.

<sup>75</sup> The terminologies, “nonresidential parent” and “noncustodial parent” vary among studies. This report uses the terminology of a particular study when citing previous studies. When discussing general concepts relevant to child support, it uses “paying-parent” for what some studies refer to as the nonresidential parent or noncustodial parent; and “receiving parent” for custodial parent and residential parent.

<sup>76</sup> This is assumed from Grall (2020) who reports that four out of five custodial parents are mothers. See Grall, Timothy. (May 2020). *Custodial Mothers and Fathers and Their Child Support: 2015* Current Population Reports, U.S. Census Bureau. Retrieved from <https://www.census.gov/content/dam/Census/library/publications/2020/demo/p60-269.pdf>.

<sup>77</sup> U.S. Congressional Research Service. (Oct. 18, 2021). *Demographic and Socioeconomic Characteristics of Nonresident Parents*. <https://crsreports.congress.gov/product/pdf/R/R46942>.

<sup>78</sup> Ohio Department of Jobs and Family Services. (forthcoming). *2023 Child Support Guidelines Review: Report to the General Assembly*.

Having visitation privileges or joint custody is only part of the picture. Another consideration is whether the other parent exercises shared parenting through visitation or physical custody. A 2017 national study found the frequency of visitation between the nonresident parent and that parent's youngest nonresident child to be:

- 32 percent saw their child several times a week;
- 12 percent saw their child about once a week;
- 17 percent saw their child once to three times a month;
- 22 percent saw their child one to several times a year; and
- 17 percent did not see their child.<sup>79</sup>

An analysis of 2015 Census data on the number of days that noncustodial parents spent with their youngest child per year finds slightly different results:

- 35 percent spent at least 52 days per year;
- 9 percent spent 24–51 days per year;
- 7 percent spent 12–23 days per year;
- 15 percent spent less than 12 days per year; and
- 34 percent spent no days.<sup>80</sup>

One obvious constraint to timesharing is the geographical difference between the parents. One national study finds that 77 percent of noncustodial parents live in the same state as the custodial household.<sup>81</sup> However, residency does not always speak to distance given the land mass of some states and the parents may live next to a state border.

There is a wide range of parenting-time arrangements to consider in the development and revision of a timesharing adjustment in a state's child support guidelines.

More current national data and Ohio-specific data on the frequency of days with the paying-parent are not available. There are some state-specific studies, however, that find that shared physical custody is increasing. For example, one study found that shared physical custody increased from 12 percent of Wisconsin divorces with children in 1989 to 50 percent in 2010.<sup>82</sup> The increase in equal custody was from 5 percent to

35 percent alone. The situation, however, is not the same for cases involving never-married parents. Another study using Wisconsin data, found that just 7 percent of nonmarital cases in which paternity was established had shared placement.<sup>83</sup> The study also found no change in that frequency over time.

<sup>79</sup> U.S. Congressional Research Service. (Oct. 18, 2021). Demographic and Socioeconomic Characteristics of Nonresident Parents. <https://crsreports.congress.gov/product/pdf/R/R46942>.

<sup>80</sup> Calculated from Sorensen, Pashi, and Morales using the weighted average of IV-D and non-IV-D. (The original study reported the percentages separately for these two groups. See Sorensen, Elaine, Pashi, Arthur, & Morales, Melody. (Nov. 2018). *Characteristics of Families Served by the Child Support (IV-D) Program: 2016 U.S. Census Survey Results*. <https://www.acf.hhs.gov/archive/css/report/characteristics-families-served-child-support-iv-d-program-2016-census-survey>.

<sup>81</sup> *Ibid.* Sorensen et al.

<sup>82</sup> Daniel R. Meyer et al., *The Growth in Shared Custody in the US: Patterns and Implications*, 55 FAM. CT. REV. 1, 2 (2017).

<sup>83</sup> Costanzo, Molly, & Reilly, Aaron. (Sept. 2021). *2020-2022 Child Support Policy Research Agreement Task 6: Shared Placement in Paternity Cases: An Initial Look*. University of Wisconsin- Madison Institute for Research on Poverty. <https://www.irp.wisc.edu/wp/wp-content/uploads/2021/11/CSRA-2020-2022-T6.pdf>.

In most states and local jurisdictions, divorcing and never-married parents have different “on-ramps” to obtaining a court order for shared-physical custody/parenting plan. Most custodial parents in the 2016 national Current Population Survey were either never married (41%) or divorced (31%).<sup>84</sup> For most courts across the nation, a typical “divorce packet” for parents with minor children covers the legal actions of divorce, custody, and the child support order. Some states and jurisdictions take it even a step further by requiring parenting-education classes among divorcing parents with children. These legal actions are not typically bundled for never-married parents, and no state and few jurisdictions require parenting-education cases among never-married parents with children.<sup>85</sup>

When the issue is only the establishment of a child support order, which can be the situation for never-married parents, the legal process for establishing a financial order can be more streamlined. For example, the administrative process provides for a more streamlined process for the establishment of child support orders. Nonetheless, partially due to federal program funding constraints, few state child support programs address parenting time when they establish or enforce child support orders.<sup>86</sup> Instead, it is not uncommon for a child support order to be issued by one tribunal (e.g., juvenile court or through an administrative process) and a physical custody/parenting plan to be heard in another court (e.g., district or family court) assuming at least one parent requests it. (The precise legal process varies by state and local jurisdiction. Similarly, whether court fees are required to file a request for a parenting order and the amount of those court fees varies from court to court.) Further, federal regulation provides that the state child support program can petition for court-ordered child support in certain circumstances (e.g., the household is enrolled in Temporary Assistance to Needy Families and assigned their child support rights to the state), but it does not provide it the authority to petition for timesharing orders.

In short, the barriers for establishing parenting-time orders among never-married parents are multifaceted. Standard and model parenting time orders in many Ohio counties, however, make it easier for never-married parents in these Ohio counties to get timesharing orders than never-married parents in counties that do not have standard and model parenting time orders. On the other hand, as noted in the 2013 Ohio guidelines review report, unrepresented parents may not know about local model parenting time orders.<sup>87</sup> Regardless of the data source and whether the parents are divorcing, the bottom line is there is a wide range of parenting-time arrangements and parenting time is not always court-ordered. Equal timesharing is not the norm and there are some situations when there is no timesharing.

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<sup>84</sup> Sorensen, Elaine, Pashi, Arthur, & Morales, Melody. (Nov. 2018). *Characteristics of Families Served by the Child Support (IV-D) Program: 2016 U.S. Census Survey Results*. <https://www.acf.hhs.gov/archive/css/report/characteristics-families-served-child-support-iv-d-program-2016-census-survey>.

<sup>85</sup> Oakland County, Michigan, and Pima County, Arizona have tried parenting education classes for never-married parents. They found a need for a different curriculum partially because it cannot be presumed that the parents ever lived together.

<sup>86</sup> Pearson, J. (2015). Establishing parenting time in child support cases: New opportunities and challenges. *Family Court Review*. 53(2), 246-257.

<sup>87</sup> Ohio Department of Jobs and Family Services. (n.d.). *2013 Child Support Guidelines Review: Report to the General Assembly*. p. 14, retrieved from <https://jfs.ohio.gov/Ocs/pdf/2013CSGuidelinesAdvCouncilReport.stm>.

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## Overview of Timesharing Formulas and Provisions in Ohio and Other State Guidelines

Most state child support guidelines (41 state guidelines including the Ohio guidelines) and the District of Columbia provide a formula to adjust for parenting time. Although federal regulation requires each state to provide statewide rebuttal, presumptive child support guidelines, it does not require states to provide a timesharing formula. Most states usually apply their timesharing formula as a rebuttal presumptive, assuming state-determined criteria for the adjustment are met. A few states (e.g., South Carolina) provide that the timesharing formula is to be used if a deviation for shared-parenting time is granted. Most of the states without formulas provide for a deviation for shared-parenting time, but do not specify a formula. Ohio and Missouri provide both a timesharing formula at low levels of timesharing and a deviation for equal timesharing. Iowa, Louisiana, Nebraska, and North Dakota also provide different treatment for different levels of timesharing. After convening a legislative task force, Minnesota replaced its two-tier timesharing formula with one formula that could be applied to all levels of timesharing.

Ohio and Missouri provide both a timesharing formula at low levels of timesharing and a deviation for equal timesharing. A few other states also provide different treatments for different levels of timesharing.

Among the 42 states with timesharing formulas in their child support guidelines:

- 23 states use a similar formula; and
- Most of the other 19 states have their own unique formula—that is, only that state uses it.

Ohio is one of those 19 states. One reason for the variation is there is virtually no economic data on what each parent spends directly on their children in shared-parenting situations; specifically, there is no robust dataset tracking child-rearing expenditures of matched parents in shared physical custody situations.<sup>88</sup> However, in the past 40 years, almost a dozen of credible studies on how much intact families spend on children have been conducted. These studies form the basis of most child support schedules/formulas used to calculate child support in sole-custody situations. These child-rearing expenditure studies rely on the Consumer Expenditure (CE) Survey conducted by the U.S. Bureau of Labor Statistics, which is an ongoing, comprehensive, and rigorous survey with over a hundred-year history.<sup>89</sup> Today, the CE surveys about 6,000 households a quarter on hundreds of expenditures items.<sup>90</sup>

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<sup>88</sup> Oldham, Thomas, & Venohr, Jane. (May 2021). "The Relationship between Child Support and Parenting Time." *Family Law Quarterly*. Volume 43, Number 2. Available at <https://centerforpolicyresearch.org/publications/the-relationship-between-child-support-and-parenting-time/>.

<sup>89</sup> U.S. Bureau of Labor Statistics (BLS). (Jun. 28, 2018). *130 Years of Consumer Expenditures*. Retrieved from <https://www.bls.gov/cex/csxhistorical.htm>.

<sup>90</sup> There are two components to the CE survey. Each starts with a sample of about 12,000 households. One component is a diary survey, and the other is an interview survey. The results from the interview survey are the primary data source for measuring child-rearing expenditures. Nonetheless, the BLS uses both components to cross check the quality of the data. More information can be found at U.S. Bureau of Labor Statistics. (n.d.). *Handbook of Methods: Consumer Expenditures and Income*. p. 16. Retrieved from <https://www.bls.gov/opub/hom/cex/pdf/cex.pdf>.



In turn, states adjust these estimates of child-rearing expenditures in intact families for shared-parenting time using a wide range of mathematical and policy assumptions. An example of a common mathematical assumption is that it costs more to raise a child in two households than in one household. An example of a policy assumption is that the structure of the shared-parenting formula can encourage parental dispute and litigation over the shared-parenting arrangement to reduce or increase the child support order depending on whether the parent will be receiving or paying child support. This is typically an undesirable policy outcome; hence, many states try to structure their timesharing adjustment criteria or formula to avoid this.

There is no robust, credible data set tracking child-rearing expenditures of matched parents in shared physical custody situations. Hence, assumptions must be made for timesharing formulas. Some start from studies of child-rearing expenditures in intact families. There is a rich, robust and credible dataset tracking expenditures in intact families.

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### General Overview of Economic Basis of State Child Support Schedules

Before delving into state timesharing formulas, the economic basis of most state child support

Most state guidelines layer on their timesharing adjustments on top of their guidelines calculation for sole custody orders/basic support.

schedules/formulas used in sole custody situations is summarized. This is important to understanding how most states layer their timesharing adjustment on top of the calculation of the child support order for sole custody situations. In fact, California is the only state that incorporates the timesharing formula into its basic child

support formula. In contrast, all other states first calculate a base level of child support for sole custody, then adjust for timesharing.

To compare the Ohio approach to those of other states, it is also important to first understand the Ohio approach and the criticism it received in public comment. To that end, a summary of Ohio's approach is provided before exploring other state timesharing formulas.

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### Guidelines Models and Estimates of Child-Rearing Expenditures in Intact Families

Most states rely on estimates of child-rearing expenditures in intact families as the basis of their child support guidelines schedule/formula. They do so because it is consistent with the common principle of "continuity of expenditures guidelines model" that underly most state child support guidelines— that is, the child support award should allow the children to benefit from the same level of expenditures had the children received had the parents lived together and combined financial resources.<sup>91</sup>

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<sup>91</sup> Ingrid Rothe & Lawrence Berger. (Apr. 2007). "Estimating the Costs of Children: Theoretical Considerations Related to Transitions to Adulthood and the Valuation of Parental Time for Developing Child Support Guidelines." *IRP Working Paper*, University of Wisconsin: Institute for Research on Poverty, Madison, WI.



What guidelines model is used is a state policy decision. States generally favor continuity of expenditures models for two reasons. Children of ever-married parents and children of never-married parents are treated equitably. This is also an important policy premise aimed at alleviating poverty among children among never-married parents, who generally have higher poverty rates, when feasible. The continuity of expenditures model in contrast to a guidelines model based on the cost of the child's basic necessities (e.g., food, shelter, and clothing) allows the child to share in the standard of living the paying-parent can enjoy if the paying-parent has sufficient income to live beyond a basic necessity level. Most states believe that child support should not just provide for the child's basic necessities if the paying-parent can afford more.

Further, most states favor the income shares model because it clearly shows that both parents are financially responsible for their children since it considers each parent's pro rata share of the basic obligation. With that said, there is lots of variation among state guidelines using the income shares model. States relying on the income shares model rely on different estimates of child-rearing expenditures, and a variety of different adjustments for low income and other factors. Further, most income shares states exclude childcare expenses and most of the cost of the child's healthcare costs from the schedule/formula. Instead, these states consider the actual amount expended for childcare and the child's healthcare on a case-by-case basis elsewhere in the child support calculation.

#### *Assumption about Timesharing Arrangement in Basic Guidelines Schedules/Formulas*

Most child support schedules/formulas based on estimates of child-rearing expenditures of intact families make *no* assumption about the cost of child-rearing expenditures incurred by the parent who is supposed to pay child support. This is a nuanced difference from what was written in the 2017 Ohio Guidelines report that:

An underlying assumption built into the child support schedule is that the child is constantly in the custodial parent's household and that all costs for raising the child are assumed by the custodial parent.<sup>92</sup>

To be clear, the income shares model does not presume that the child is constantly in the custodial parent's household, nor does it presume all costs for raising the child are assumed by the custodial parent. It does, however, note the amount of expenditures a child is entitled to in the custodial parent's household, which is one household. It makes no assumption about the costs or expenditures of the other parent, or the costs or expenditures outside that one household.

Nonetheless, the last part of the statement in the 2017 report is true:

The guidelines [in effect in 2009] do not adjust the annual obligation based on the time the child spends in the noncustodial parent's household.<sup>93</sup>

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<sup>92</sup> Ohio Department of Jobs and Family Services. (n.d.). *2017 Child Support Guidelines Review: Report to the General Assembly*. p. 14. Retrieved from <https://jfs.ohio.gov/Ocs/pdf/2017CSGuidelinesRev.stm>. (The 2017 report attributes the statement to page 62 of the 2009 report.) The excerpts from the 2017 and 2009 report are shown in Appendix A.

<sup>93</sup> Ibid.

As an aside, historically, there were a few states with income shares guidelines that clearly incorporated a timesharing adjustment within their child support guidelines schedule. Until 2021, the Pennsylvania child support guidelines schedule incorporated an adjustment assuming that the children were in the care of the paying-parent 30 percent of the time and that this reduced some of the cost of the child's food and entertainment for the primary custodial parent. Note that the Pennsylvania's adjustment was how much the custodial parent's child-rearing expenditures were reduced due to 30 percent timesharing, rather than how much the paying-parent spent on the child when there was 30 percent timesharing. These amounts are not always equal. The primary custodial parent may not realize savings in child-rearing expenditures because the child is with the other parent. For example, the parent may not realize savings equivalent to what the other parent spends because the primary custodial parent buys a quart of milk instead of a gallon of milk or cannot rent out the child's bedroom when the child is with the other parent.

When the Pennsylvania child support schedule use to incorporate an assumption that the obligated parent had 30-percent timesharing, the adjustment was based on how much the custodial parent's child-rearing expenditures were reduced due to 30 percent timesharing, rather than how much the obligated parent spent on the child when there was 30 percent

In all, this assumption reduced the Pennsylvania schedule amounts by about 5 percent. Pennsylvania eliminated this assumption in 2021 because it was not clear how to adjust for timesharing less than or more than 30 percent, and Pennsylvania provides a formulaic adjustment for 40 percent or more timesharing. The Louisiana child support schedule adapted around 2007 also incorporated an adjustment for the child's food at a standard level of timesharing. This assumption was eliminated when Louisiana last updated its child support schedule. At one time, the documentation of the Kansas child support schedule suggested a similar adjusted incorporated into its schedule, but the most current documentation does not indicate a timesharing adjustment incorporated into the schedule.

#### Types of Child-Rearing Expenditures

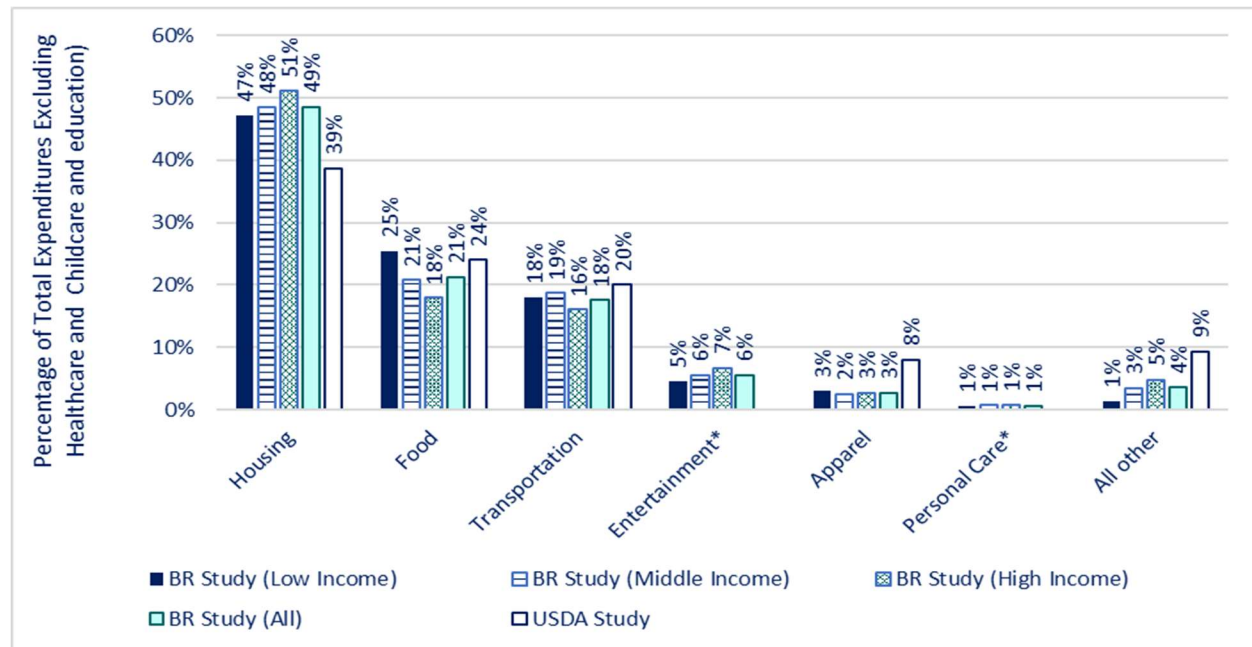
As discussed in more detail, later some state timesharing adjustments assume that some categories of child-rearing expenditures (e.g., food) are time variable—that is, only the parent with the child picks up the cost of the child's food during that time. Even though most estimates of child-rearing expenditure are not developed by adding different categories of expenditures,<sup>94</sup> some studies also provide a

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<sup>94</sup> This is not done because many categories of expenditures (e.g., food) are consumed by both the children and the adults of the household. Economists have developed different methodologies to overcome this that do not require itemizing expenditures items. For example, the Rothbarth methodology examines expenditures in families with and without children and attributes the difference in their expenditures when equally well-off to child-rearing expenditures. For more discussion about the different methodologies, see Arizona's and California's most recent child support guidelines review reports. Betson, David M. (2021). "Appendix A: Parental Expenditures on Children: Rothbarth Estimates." In Venohr, Jane, & Matyasic, Savannah. (Feb. 23, 2021). Review of the Arizona Child Support Guidelines: Findings from the Analysis of Case File Data and Updating the Child Support Schedule. Report to the Arizona Supreme Court Administrative Office of the Courts. Retrieved from <https://www.azcourts.gov/Portals/74/FCIC-CSGR/SupplementalPacket-030121-FCIC-CSGRS.pdf?ver=2021-02-26-161844-187>. Betson, David M. (2021). "Appendix B: Additional Research on the Cost of Raising Children." In Judicial Council of California,

breakdown of the expenditures by the major categories used in the CE survey. Exhibit 17 shows the distribution of specific expenditure categories from the most current Betson-Rothbarth (BR) study of child-rearing expenditures and the USDA study.<sup>95</sup> Exhibit 18 provides summary descriptions of major expenditure categories.

**Exhibit 17: Percentage of Total Expenditures Devoted to Specific Expenditures\***



\* Excludes healthcare and childcare. The USDA study collapses entertainment and personal care in "all other."

Besides three states (i.e., Indiana, Missouri, and New Jersey) that make assumptions about what categories of expenditures are time variable, the 2017 Ohio report makes an assumption about these expenditures:

Variable costs (such as food and shelter) which follow the child from household to household and increase proportional to the amount of time the child is in the household of the noncustodial parent.<sup>96</sup>

As discussed later, however, despite the above statement, Indiana, Missouri, and New Jersey do not consider shelter a time-variable expense.

Review of Statewide Uniform Child Support Guideline. San Francisco, CA. Retrieved from <https://www.courts.ca.gov/documents/Review-of-Uniform-Child-Support-Guideline-2021.pdf>.

<sup>95</sup> The BR study considers expenditures made by families participating in the 2013–2019 CE survey. The BR study has been used by all seven states to update their guidelines schedule/formula in the last two years except for Massachusetts. The USDA study considers expenditures from families in 2011–2015. The findings from both studies have been adjusted to exclude healthcare and childcare expenses since the actual amount expended on those items is considered on a case-by-case basis in the determination of the child support order amount.

<sup>96</sup> Ibid.

#### Exhibit 18: Descriptive of Types of Expenditures

<b>Housing</b>	Rent paid for dwellings, rent received as pay, parking fees, maintenance, and other expenses for rented dwellings; interest and principal payments on mortgages, interest and principal payments on home equity loans and lines of credit, property taxes and insurance, refinancing and prepayment charges, ground rent, expenses for property management and security, homeowners' insurance, fire insurance and extended coverage, expenses for repairs and maintenance contracted out, and expenses of materials for owner-performed repairs and maintenance for dwellings used or maintained by the consumer unit. Also includes utilities, cleaning supplies, household textiles, furniture, major and small appliances, and other miscellaneous household equipment (tools, plants, decorative items).
<b>Food</b>	Food at home purchased at grocery or other food stores, as well as meals, including tips, purchased away from home (e.g., full-service and fast-food restaurant, vending machines).
<b>Transportation</b>	Vehicle finance charges, gasoline and motor oil, maintenance and repairs, vehicle insurance, public transportation, leases, parking fees, and other transportation expenditures.
<b>Entertainment</b>	Admission to sporting events, movies, concerts, health clubs, recreational lessons, television/radio/sound equipment, pets, toys, hobbies, and other entertainment equipment and services.
<b>Apparel</b>	Apparel, footwear, uniforms, diapers, alterations and repairs, dry cleaning, sent-out laundry, watches, and jewelry.
<b>Other</b>	Personal care products, reading materials, education fees, banking fees, interest paid on lines of credit, and other expenses.

#### THE EXISTING OHIO TIMESHARING FORMULA

The existing Ohio timesharing formula consists of two parts:

- A 10 percent reduction to the individual support obligation when there is court-ordered parenting time of at least 90 overnights per year; and
- A deviation factor in which if the overnights is at 147 overnights, the court is required to explain why they did not deviate if they do not do so.

Exhibit 19 shows excerpts of the state statute providing for this approach. This adjustment evolved over two guidelines review cycles and many comments from the general public and stakeholders and legislative input.

#### Exhibit 19: Ohio's Child Support Guidelines Provisions Addressing Parenting Time (Ohio Revised Code Title 31)

##### Section 3119.051 Reduction in cases where parenting time order equals or exceeds ninety overnights per year.

(A) Except as otherwise provided in this section, a court or child support enforcement agency calculating the amount to be paid under a child support order shall reduce by ten per cent the amount of the annual individual support obligation for the parent or parents when a court has issued or is issuing a court-ordered parenting time order that equals or exceeds ninety overnights per year. This reduction may be in addition to the other deviations and reductions.

(B) At the request of the obligee, a court may eliminate a previously granted adjustment established under division (A) of this section if the obligor, without just cause, has failed to exercise court-ordered parenting time.

##### Section 3119.231 | Deviation where court-ordered parenting time exceeds ninety overnights per year.

(A) If court-ordered parenting time exceeds ninety overnights per year, the court shall consider whether to grant a deviation pursuant to section 3119.22 of the Revised Code for the reason set forth in division (C) of section 3119.23 of the Revised Code. This deviation is in addition to any adjustments provided under division (A) of section 3119.051 of the Revised Code.

(B) If court-ordered parenting time is equal to or exceeds one hundred forty-seven overnights per year, and the court does not grant a deviation under division (A) of this section, it shall specify in the order the facts that are the basis for the court's decision.

#### *Other Relevant Provisions*

#### **Section 3119.08 Child support order to include specific provisions for parenting time and visitation.**

Whenever a court issues a child support order, it shall include in the order specific provisions for regular, holiday, vacation, parenting time, and special visitation in accordance with section 3109.051, 3109.11, or 3109.12 of the Revised Code or in accordance with any other applicable section of the Revised Code.

#### **Section 3119.09 Denial of or interference with right of parenting time or visitation.**

The court shall not authorize or permit the escrowing, impoundment, or withholding of any child support payment because of a denial of or interference with a right of parenting time or visitation included as a specific provision of the child support order or as a method of enforcing the specific provisions of the child support order dealing with parenting time or visitation.

#### **Section 3119.22 Deviating from schedule or worksheet.**

The court may order an amount of child support that deviates from the amount of child support that would otherwise result from the use of the basic child support schedule and the applicable worksheet if, after considering the factors and criteria set forth in section 3119.23 of the Revised Code, the court determines that the amount calculated pursuant to the basic child support schedule and the applicable worksheet would be unjust or inappropriate and therefore not be in the best interest of the child.

#### **Section 3119.23 Factors to be considered in granting a deviation.**

The court may consider any of the following factors in determining whether to grant a deviation pursuant to section 3119.22 of the Revised Code:

(C) Extended parenting time or extraordinary costs associated with parenting time, including extraordinary travel expenses when exchanging the child or children for parenting time;

(A)(1) A court that issues a shared parenting order in accordance with section 3109.04 of the Revised Code shall order an amount of child support to be paid under the child support order that is calculated in accordance with the schedule and with the worksheet, except that, if that amount would be unjust or inappropriate to the children or either parent and therefore not in the best interest of the child because of the extraordinary circumstances of the parents or because of any other factors or criteria set forth in section 3119.23 of the Revised Code, the court may deviate from that amount.

(2) The court shall consider extraordinary circumstances and other factors or criteria if it deviates from the amount described in division (A)(1) of this section and shall enter in the journal the amount described in division (A)(1) of this section its determination that the amount would be unjust or inappropriate and therefore not in the best interest of the child, and findings of fact supporting its determination.

(B) For the purposes of this section, "extraordinary circumstances of the parents" includes all of the following:

(1) The ability of each parent to maintain adequate housing for the children;

(2) Each parent's expenses, including child care expenses, school tuition, medical expenses, dental expenses, and any other expenses the court considers relevant;

(3) Any other circumstances the court considers relevant.

The 2017 Ohio Child Guidelines Review report recommended that the child support worksheet incorporate an adjustment to reflect the time spent in each parent's home when there was a parenting-

time order in effect.<sup>97</sup> To clear, the recommendation was for one worksheet that would work for cases without a parenting-time order and for those with a parenting-time order.<sup>98</sup> In contrast, many states have separate worksheets for sole and shared physical custody because the mathematical steps are too complicated to put in one worksheet. The need for one worksheet is documented in the 2013 guidelines review report.<sup>99</sup>

The report also favored a standard adjustment for those cases with parenting-time orders based on a local model order and an enhanced deviation adjustment for those cases that involve an extended parenting time order. The enhanced deviation adjustment was an alternative to a formula for an extended parenting time, which would have probably required a worksheet. In short, the 2017 report recognizes two types of parenting-time arrangements and recommended treating them differently. The 2017 report also retained the recommendation put forth in the 2013 recommendation to provide an adjustment of 10 percent of the combined annual support obligation when a standard parenting time order has been issued by a court.<sup>100</sup>

The options available for Ohio's timesharing adjustment are constrained because in the past Ohio had to keep to one worksheet for sole/shared custody and another for split custody. Most states provide two different worksheets for sole and shared physical custody because the latter is a more complicated calculation.

At the time, the Ohio guidelines provided extended parenting time as a justification for a guidelines deviation. The recommendation retained that criterion but added to it. The addition consists of requiring a court that does not grant a deviation for extended parenting time to specify the basis for the court's decision not to deviate if court-ordered parenting time is equal to or exceeds 147 overnights per year.

One rationale for adapting an adjustment was to reduce the number of deviations. Federal regulation suggests that states adopt provisions that would limit deviations. Extended parenting time or the cost associated with parenting time comprised 44 percent of the deviations in the case file data analyzed for the 2022 review.<sup>101</sup>

#### County Parenting-Time Guidelines and Standard Parenting Orders

The "local model order" is in reference to county-specific standard parenting-time orders and parenting-time guidelines. They vary widely among Ohio counties. For example, Montgomery County provides a standard order of parenting time that consists of every other weekend, Wednesday evening, every other

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<sup>97</sup> Ohio Department of Jobs and Family Services. (n.d.). *2017 Child Support Guidelines Review: Report to the General Assembly*. p. 14. Retrieved from <https://jfs.ohio.gov/Ocs/pdf/2017CSGuidelinesRev.stm>.

<sup>98</sup> Ohio has two worksheets. The other is for split custody.

<sup>99</sup> Ohio Department of Jobs and Family Services. (n.d.). *2013 Child Support Guidelines Review: Report to the General Assembly*. p. 18, retrieved from <https://jfs.ohio.gov/Ocs/pdf/2013CSGuidelinesAdvCouncilReport.stm>.

<sup>100</sup> *Ibid.* p. 15.

<sup>101</sup> Ohio Department of Jobs and Family Services. (forthcoming.). *2023 Child Support Guidelines Review. Report to the General Assembly*.

holiday, spring or Christmas break, and half the summer break.<sup>102</sup> This amounts to roughly about 89 overnights per year. Still another example is Hamilton County, which encourages parents to design their own parenting-time schedule that is sensitive to the age of the child. If parents cannot agree, the parenting-time schedule defaults to about 80 overnights per year.<sup>103</sup> The 2017 report suggested that the norm among counties was about a 70/30 percent split in the child's time between the custodial parent and the noncustodial parent, respectively, which would be about 255/110 overnights.

The variation among counties is an important consideration. Many states provide that a timesharing adjustment does not occur until timesharing reaches a state-determined threshold. Often, the threshold is above standard parenting-time arrangements within that state. There is no statewide standard parenting-time guideline in Ohio; rather, it varies by county.

#### 2009 and 2013 Recommendations

The 2009 recommendation also included a two-tier approach: a standard adjustment when standard parenting time was ordered, and another approach when the parenting time order consisted of almost equal custody.<sup>104</sup> For the standard parenting time order, one recommendation (as shown in Appendix B) was to reduce the noncustodial parent's obligation by 8.75 percent of the total obligation.<sup>105</sup> For almost equal custody arrangements, several options were considered including a cross-credit formula, which is the most commonly used formula among states, or an offset formula. Both formulas are discussed in more detail in the next subsection. Most states using the cross-credit formula provide another worksheet for its the calculation. The 2009 report discussion focused on a threshold of 40 percent timesharing. The 2009 report mentioned that obligor advocacy groups questioned the methodology underlying the proposed adjustment.<sup>106</sup>

The 2013 recommendation was consistent with the 2017 recommendation: one worksheet, a standard adjustment for those cases with parenting time orders based on a local model order, and an enhanced deviation adjustment for those cases that involve an extended parenting time order.<sup>107</sup> The 2013 report notes that an extended parenting-time worksheet was limited by state law and the need for adjustments at the bench and bar level but did not provide detail.<sup>108</sup>

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#### Public Comment on Ohio's Current Timesharing Formula

The Ohio Child Support Guidelines Advisory Committee solicited public input through a survey. As of early September, it received 2,087 open-ended responses and 24 responses were relevant to the

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<sup>102</sup> Montgomery County Domestic Relations Court. (Feb. 2016). *Standard Order of Parenting Time*. Retrieved from [https://www.mcoho.org/document\\_center/DomesticRelationsCourt/DR\\_21\\_rev\\_2\\_1\\_2016.pdf](https://www.mcoho.org/document_center/DomesticRelationsCourt/DR_21_rev_2_1_2016.pdf).

<sup>103</sup> Hamilton County Juvenile Court. (n.d.). *Standard Companionship Schedule*. Retrieved from [http://www.juvenile-court.org/juvenilecourt/FormsHome/PDF\\_Forms/CUST\\_VIST\\_GRNDPT/VIST/O-3\\_Standard\\_Parenting\\_Time\\_Guidelines.pdf](http://www.juvenile-court.org/juvenilecourt/FormsHome/PDF_Forms/CUST_VIST_GRNDPT/VIST/O-3_Standard_Parenting_Time_Guidelines.pdf).

<sup>104</sup> Ohio Department of Jobs and Family Services. (n.d.). *2009 Child Support Guidelines Review: Report to the General Assembly*. p. 14. Retrieved from <https://ifs.ohio.gov/Ocs/pdf/2009ChildSupportGuidelineRecommendations.pdf>.

<sup>105</sup> *Ibid.* p. 62.

<sup>106</sup> *Supra*, Ohio Department of Jobs and Family Services. *2009 Child Support Guidelines Review*. p. 14.

<sup>107</sup> Ohio Department of Jobs and Family Services. (n.d.). *2013 Child Support Guidelines Review: Report to the General Assembly*. p. 5, retrieved from <https://ifs.ohio.gov/Ocs/pdf/2013CSGuidelinesAdvCouncilReport.stm>.

<sup>108</sup> *Ibid.* p. 18.



timesharing formula. In addition, Mr. Phil Creed, a member of the public who pays child support, presented a critique of Ohio's current timesharing formula at the August 2022 committee meeting. The survey respondents self-identified as parents who are supposed to receive support (7 respondents), parents who are supposed to pay support (14 respondents), and three other respondents who identified themselves as a spouse of a parent paying child support or adult child whose parent is still paying child support or a paternal grandparent. In addition, two respondents identified themselves as having more than one role with child support.

The most common topic was the treatment of cases with 50/50 percent timesharing arrangements. Almost half of the respondents addressed order amounts for 50/50 timesharing arrangements. This was true regardless of whether the respondent was supposed to receive child support or pay child support. Many stated that the order should be zero if there was 50/50 timesharing. To be clear, their statements were not zero orders if there was 50/50 timesharing and nearly equal income; rather, they believed the 50/50 timesharing alone should yield a zero order. As one respondent put it, both parents are paying for the care of the child, and a child support order in this situation would just put hardship on one parent. As another respondent put it, "Making up the difference of income for the parent to pay to equal out for the child is a bit bizarre. . . ." Subsequently, that respondent explained that one parent may be essentially earning less than the other parent by choice because they love their occupation; hence, the respondent implied the higher earner would be ordered to pay child support. Another respondent emphasized the importance of choice in 50/50 timesharing, but in a different context: the parent should be able to "decide to spend their money on that child."

A couple of respondents, however, suggested that there may be situations where an order would be appropriate in 50/50 timesharing (e.g., the parents have a large income disparity or one parent does not want 50/50 timesharing). A couple of other respondents suggested that there should be equal support when the child spent equal time with each parent but did not elaborate what that meant.

In tandem with comments suggesting zero orders for 50/50 timesharing, several respondents volunteered that they favored presumptive 50/50 shared physical custody even though the survey concerned the determination of child support orders, not custody orders or parenting plans. A few also expounded that the underlying issue was equitable treatment between men and women or mothers and fathers in the calculation of child support.

Two respondents suggested that Ohio needed a timesharing formula to weigh the distribution of both parents' incomes and child-related expenses. Mr. Creed also suggested a formula for 50/50 timesharing would be helpful: it would produce more consistent order amounts than deviations do and provide a starting point for parents seeking to arrive at an agreement among themselves. Other respondents seem to imply that the timesharing adjustment did not reflect true child-rearing costs, but it was not always clear that was their point. Mr. Creed also expressed concern over the jurisdiction of administrative reviews of child support orders.<sup>109</sup>

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<sup>109</sup> As an aside, a review of the Ohio administrative process is outside the scope of this project, but CPR is aware of other states where the administrative hearing officer does not have the authority to deviate for timesharing or another reason.



Mr. Creed and another respondent took issue with the 90-day threshold for applying the current Ohio reduction of 10 percent. The issue is that it causes a precipitous decrease to the guidelines-determined order amount when timesharing increases from 89 to 90 overnights. They argued that this was not a sensible policy outcome. Both also took issue with applying the 10 percent reduction to the paying-parent's prorated share of the basic obligation (called the "individual" support obligation) and suggested it would be more sensible to apply the 10 percent reduction to the basic obligation instead, which was a recommendation that came out of the 2017 guidelines review. They suggested applying the credit to the individual support obligation created an inequity among paying-parents with low and high incomes and reduced the appropriate credit for timesharing by the other parent's prorated share of income.

Four respondents identified issues when timesharing did not occur as ordered. Two parents receiving support complained about receiving an inadequate level of support when timesharing did not occur. A parent paying support complained about how the other parent moved out of state even though they had 50/50 timesharing. Another parent obligated to pay support suggested that if one parent prevents timesharing from occurring as ordered, that should be a reason for reviewing the child support order. Transportation expenses associated with parenting time were brought up by two respondents as well.

#### OVERVIEW OF SHARED-PARENTING TIME ADJUSTMENTS IN STATE GUIDELINES

Exhibit 20 is an attempt to group the types of timesharing formulas in state child support guidelines. Even though Exhibit 20 shows eight groups, no state formula is exactly like. For example, those using simple percentages or sliding scale adjustment vary in the percentages they use and the income thresholds in which they apply the percentages. Even those states using the cross-credit with a 1.5 multiplier vary in the percentage of parenting time that must be met before applying the formula and the criteria that must be met for the adjustment to occur. As shown in Exhibit 21, state thresholds for applying the timesharing formula vary.

The states bordering Ohio use a variety of timesharing formulas. West Virginia is the only one to use the cross-credit formula, which is the formula used by most states. Exhibit 20 also shows nine states without a formula. Most of these states (Alabama, Connecticut, Georgia, Mississippi, New Hampshire, and New York) are currently reviewing their guidelines. Many of those states are considering a timesharing formula to improve consistency and predictability of timesharing adjustments. Many also believe that timesharing is increasing and that providing an adjustment to recognize the paying-parent's direct expenditures on the children is appropriate, fair, and just.

Besides showing a wide variation in the timesharing threshold before applying a state's timesharing adjustment, Exhibit 21 shows that Ohio and seven other states (including the bordering state of Kentucky) have a threshold in the 21 percent to 25 percent range. Ten states (including the bordering states of Indiana and Michigan) have a threshold less than that. The remaining 23 states (including Pennsylvania and West Virginia, which border Ohio) have a higher timesharing threshold. In short, Ohio is in the mid-range.

**Exhibit 20: Types of Timesharing Formulas in State Child Support Guidelines**

Formula	States
Cross-Credit with 1.5 Multiplier	18 states (AK, CO, DC, IL, ID, FL, LA, ME, MD, NE, NC, NM, SC, SD, VT, WV, WY, WI) and IA* for equal custody
Cross-Credit with No or Alternative Multiplier	4 states (MT, NV, OK, VA)
Offset	1 state (RI) and ND* for equal custody
Simple Percentage or Sliding Scale Adjustment	7 states (AZ, DE, IA*, KS, KY**, OH, UT)
Consideration of Transferable and Fixed Expenses	3 states (IN, MO, NJ)
Non-Linear Formulas	3 states (MI, MN, OR)
Per Diem Adjustment	4 states (HI, PA, ND*, TN)
Unique Formula	2 states (CA, MA)
States with a Formula	42 states
States without a Formula	9 states (AL, AR, CT, GA, MS, NH, NY, TX, WA)

\* State is listed twice because it has two different formulas depending on the amount of time.

\*\* The Kentucky sliding scale percentage will be effective April 2023.

**Exhibit 21: Threshold for Applying Parenting-Time Formula**

Threshold for Shared-Parenting Time Adjustment	States
1–10% parenting time	8 states (AZ, CA, MI, MN, MO, NV, NJ, OR)
11–15% parenting time	1 state (IN)
16–20% parenting time	1 (FL)
21–25% parenting time	9 states (CO, DE, ID, KY, OH, TN, VT, VA, WI)
26–30% parenting time	7 states (AK, MT, NE, ND, NM, SC, UT)
31–35% parenting time	8 states (DC, IA, KS, MA, MD, NC, OK, WV)
36–40% parenting time	4 states (HI, IL, PA, WY)
41–45% parenting time	None
46–50% parenting time	4 states (KS, LA, ME, SD)
States with a Formula	42 states
States without a Formula	9 states (AL, AR, CT, GA, MS, NH, NY, TX, WA)

\* Nevada does not specify a threshold.

**Cross-Credit Formula**

The most commonly applied formula is the cross-credit formula. Essentially, theoretical orders are calculated for each parent based on the time the child is with the other parent, then offset against each other so that the parent with the higher theoretical order owes the difference. Exhibit 22 illustrates the cross-credit calculation using the Ohio schedule and applying it to one child. It is called the “cross-

credit” because Line 10 of Exhibit 22 could also be achieved by cross-multiplying each parent’s Line 6 by the other parent’s Line 8.) Most states relying on the cross-credit formula increase the basic obligation by 150 percent to account for it costing more to raise the child in two households than one household. In other words, 150 percent is used to capture the duplicated expenses. Housing and some transportation expenses are believed to be duplicated, but there is no quantitative research confirming that largely because of the lack of data sets of matched parents with timesharing arrangements. Virginia uses a 140 percent multiplier, and Oklahoma uses a sliding scale multiplier. Montana and Nevada do not use a multiplier, but neither use the income shares model. Montana relies on the Melson formula, and Nevada relies on a percentage of obligor income guidelines model.

Colorado is the first state to use the cross-credit; it began using the formula in 1986.

#### Strengths of Cross-Credit Formula

- Adjustment has a theoretical basis;
- Explainable;
- Used by many states and for many years;
- Results in zero order when there is equal custody and equal income (which many perceive as an appropriate and fair outcome); and
- Mathematically, the greater-time parent can be the paying-parent if the greater time parent has significantly more income than the lesser-time parent (which many also perceive as an appropriate and fair outcome).

#### Weaknesses of Cross-Credit Formula

- Requires another worksheet;
- Requires a timesharing threshold to apply;
- The formula with the multiplier does not work mathematically at low levels of timesharing;<sup>110</sup>
- There can be a precipitous decrease in the support amount at the timesharing threshold;
- Theoretically, not consistent with the income shares model because the adjustment is time dependent rather than income dependent; and
- Some policymakers do not favor a formula that allows the parent obligated to pay support to “flip” from one parent to the other with more timesharing (which can occur using the cross-credit if the greater-time parent has much more income than the lesser-time parent).

Ohio discussed using the cross-credit formula for equal (50/50%) timesharing during a previous review, but it would have required another worksheet, which was not feasible for Ohio at that time.

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<sup>110</sup> This is because the cross-credit amount can be more than the sole-custody calculation. A simple solution to this is to take the lower of the two calculations. This is shown on Line 12 of Exhibit 7.

**Exhibit 22: Illustration of Income Shares Using Ohio Schedule: One Child**

Line		Parent A	Parent B	Combined
1	Annual Gross Income	\$60,000	\$40,000	\$100,000
2	Percentage Share of Income	60%	40%	100%
3	Basic Obligation for 1 Child (Combined Line 1 applied to table)			\$ 11,864
4	Each Parent's Share (Line 3 x each parent's Line 2)	\$7,118	\$4,746	
5	Shared Custody Basic Obligation (Line 3 x 1.5)			\$17,796
6	Each Parent's Share (Line 5 x each parent's Line 2)	\$10,678	\$7,118	
7	Overnights with Each Parent (must total 365)	100	265	365
8	Percentage Time with Each Parent (Line 7 divided by 365)	27%	73%	100%
9	Amount Retained (Line 6 x Line 8 for each parent)	\$2,883	\$5,196	
10	Each Parent's Obligation (Line 6 – Line 9)	\$7,795	\$1,922	
11	Shared Custody Obligation (Subtract smaller from larger on Line 10)	\$5,873		
12	Final Order (lessor of Line 4 and 11)	\$5,873		

Exhibit 23 shows how the cross-credit formula can result in a cliff effect when it reaches the timesharing threshold. For this particular example, the timesharing threshold is 25 percent timesharing. The example is adapted from a recent *Family Law Quarterly* article.<sup>111</sup> It relies on the Illinois schedule for its illustration, which calculates orders monthly. In contrast, the Ohio guidelines calculates orders annually.

#### Experiences of Neighboring States with the Cross-Credit Formula

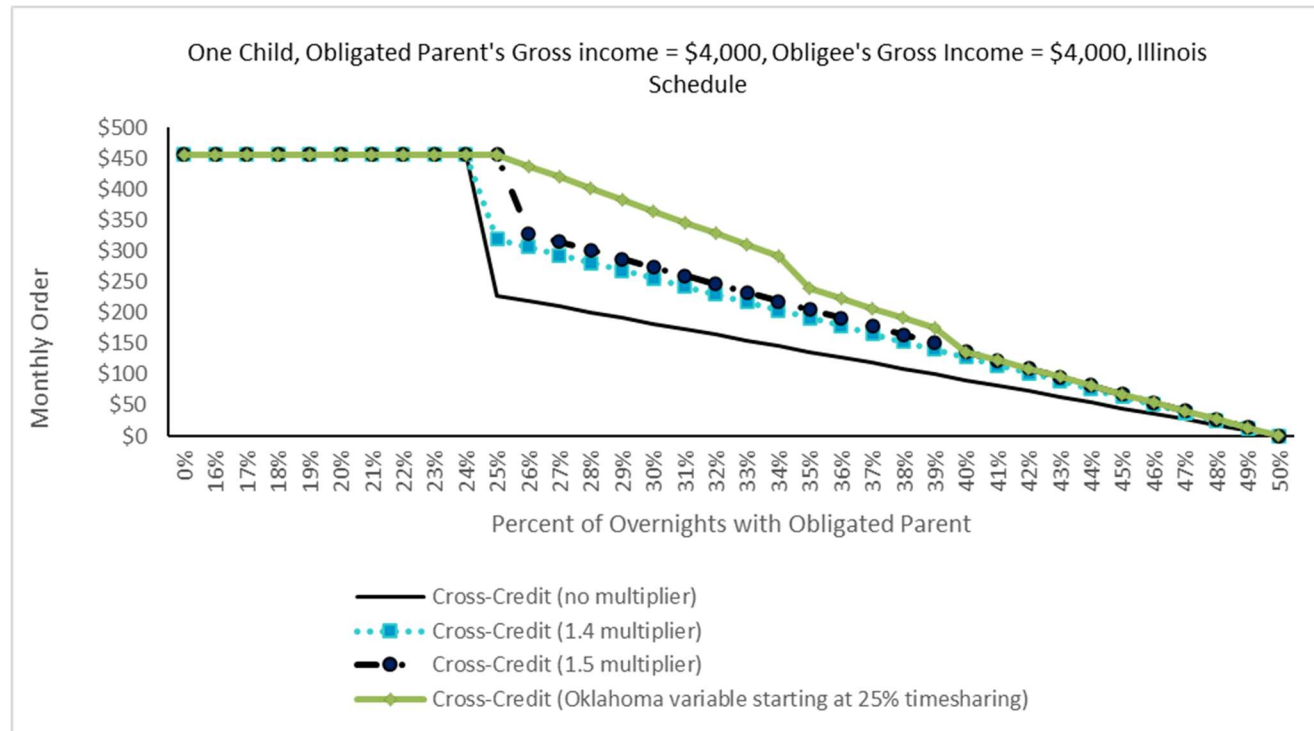
West Virginia is the only bordering state to use the cross-credit formula. However, three other midwestern states use the cross-credit formula: Iowa, Illinois, and Nebraska. Kentucky, which recently adapted a timesharing formula, rejected the cross-credit formula when deliberating what formula was appropriate for Kentucky due to its cliff effect. When Pennsylvania devised its timesharing adjustment over a decade ago, it also considered the cross-credit formula. One of the key reasons that Pennsylvania did not adapt it was because Pennsylvania policymakers did not believe the flipping of the paying-parent from the mother or father or vice versa in situations where the greater-time parent had significantly more income was appropriate. Pennsylvania policymakers believe that the greater-time parent should always be the receiving parent.

The 2022 West Virginia child support commission favors increasing the West Virginia multiplier from 150 to 160 percent after examining the Betson-Rothbarth breakdown of expenditure categories (which is also shown in Exhibit 17). West Virginia applies its adjustment to actual timesharing rather than court-ordered timesharing. The West Virginia policy perspective is this is more sensitive to the needs of low-income parents who cannot afford the court fees to obtain or change a timesharing order.

<sup>111</sup> Oldham, Thomas, & Venohr, Jane. (May 2021). "The Relationship between Child Support and Parenting Time. *Family Law Quarterly*. Volume 43, Number 2. Available at <https://centerforpolicyresearch.org/publications/the-relationship-between-child-support-and-parenting-time/>.

Also of possible interest to Ohio is at West Virginia's August 2022 Commission meeting, there was a discussion about whether the multiplier was a reality in poor households. One judge, who is a member of the Commission, offered their observations. The judge reported that low-income families do not duplicate expenses. Instead, the children sleep on floors and often do not have stable housing. Their parents may be staying with a grandparent to the children or a friend. West Virginia just recently adopted a presumption of equal physical custody. The impact on child support cases is still being assessed.

**Exhibit 23: Illustration of the "Cliff Effect" in the Cross-Credit Formula and the Impact of Different Multipliers**



### Offset Formula

The offset formula is a close cousin of the cross-credit, but simpler. When applied to the income-shares model, the calculation is based on each parent's prorated share of the basic obligation (which is Line 4 in the Exhibit 22 case example) and taking the difference. So, in the case scenario in Exhibit 7, the order would be calculated by subtracting \$4,746 per year from \$7,118 per year, which would leave \$2,372 per year payable by Parent A. If the state uses a 1.5 multiplier like Rhode Island does for its offset formula, it would subtract the difference of the amounts on Line 6: resulting in an order of \$3,560 per year.

### Strengths of Offset Formula

- Simple to calculate; and
- Understandable.

### Limitation of Offset Formula

- Provides no adjustment when the primary custodial parent has no income.
- Does not factor timeshare; and

- Does not work mathematically for timesharing arrangements other than 50/50 timesharing.

The first limitation occurs because if the receiving-parent has no income then the paying-parent has 100 percent of the income and is responsible for 100 percent of the basic obligation, while the receiving-parent is responsible for zero. This means that zero is subtracted from the paying-parent's share.

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#### Simple Percentage or Sliding Scale Percentages

Ohio is the only state to use the same percentage adjustment (i.e., 10%) across a range of timesharing arrangements. In contrast, most of these states provide percentages that increase with more overnights (see Exhibit 24 for sliding-scale adjustments in Arizona, Iowa, Kentucky, and Missouri). The basis of the 10 percent adjustment is not entirely clear. It appears to be a roundup of the 8.75 percent recommended by the 2009 guidelines review that was to be applied when the shared-parenting order was for less than 40 percent timesharing.<sup>112</sup> Applying 40 percent timesharing to the food share of about 22 percent (which approximates the percentage shown in Exhibit 17 albeit the information from Exhibit 17 is current and the percentage was likely to be slightly different in 2009) would produce about 8.75 percent. The concept of adjusting for food costs is consistent with the basis of the transferred/duplicated timesharing adjustment that is discussed later.

Arizona first adapted its adjustment in the mid-1990s. It used the concept of transferable/duplicated expenses, which is discussed next, to develop it. Since then, Arizona has tweaked it several times. Missouri and Kentucky considered the Arizona percentages when crafting their sliding scale. Kentucky also considered typical timesharing arrangements, child-rearing expenses, that there is not always a \$1 for \$1 transfer of expenses from one parent to the other parent for child-rearing expenses, and other factors. In crafting the adjustment, Kentucky policymakers aimed to keep the adjustment simple, appropriate, fair, and produce gradual amounts to minimize litigation over one or two overnights.

Exhibit 25 uses a case scenario involving parents with equal income (i.e., each has gross income of \$45,000 per year) to illustrate the staircase impact that more time with the other parent has on the order amount using a sliding scale percentage. There are more "stairs" under the Arizona adjustment than the Kentucky adjustment because there are more rows for the range of parenting days. Exhibit 25 also shows that Arizona reaches a zero-order amount by 164 parenting days, while Kentucky does not reach a zero-order amount until 182 parenting days. These thresholds correspond to the last row in each of the state's respective sliding scale chart.

#### Exhibit 24: Examples of Sliding-Scale Percentage Adjustments

Iowa		Missouri: Deviation allowed for equal custody	
128–147 overnights	15%	Number of Overnights	Adjustment
148–166 overnights	20%	Less than 36	0%

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<sup>112</sup> Ohio Department of Jobs and Family Services. (n.d.). *2009 Child Support Guidelines Review: Report to the General Assembly*. p. 14. Retrieved from <https://ifs.ohio.gov/Ocs/pdf/2009ChildSupportGuidelineRecommendations.pdf>.

167 or more but less than equally shared physical care	25%	36–72	6%
		73–91	9%
		92–109	10%
		110–115	13%
		116–119	15%
		120–125	17%
		126–130	20%
		131–136	23%
		137–141	25%
		142–147	27%
		148–152	28%
		153–158	29%
		159–164	30%
		165–170	31%
		171–175	32%
		176–180	33%
		181–183	34%
Arizona		Kentucky (eff. 4/2023)	
Parenting Time Days	Adjustment Percentage	Parenting Time Days	Adjustment Percentage
0–19	0	72–87	.105
20–34	.025	88–115	.15
35–49	.050	116–129	.205
50–69	.075	130–142	.25
70–84	.10	143–152	.305
85–99	.15	153–162	.36
100–114	.175	163–172	.42
115–129	.20	173–181	.485
130–142	.25	182–182.5	.50
143–152	.325		
153–163	.40		
164 or more	.50		

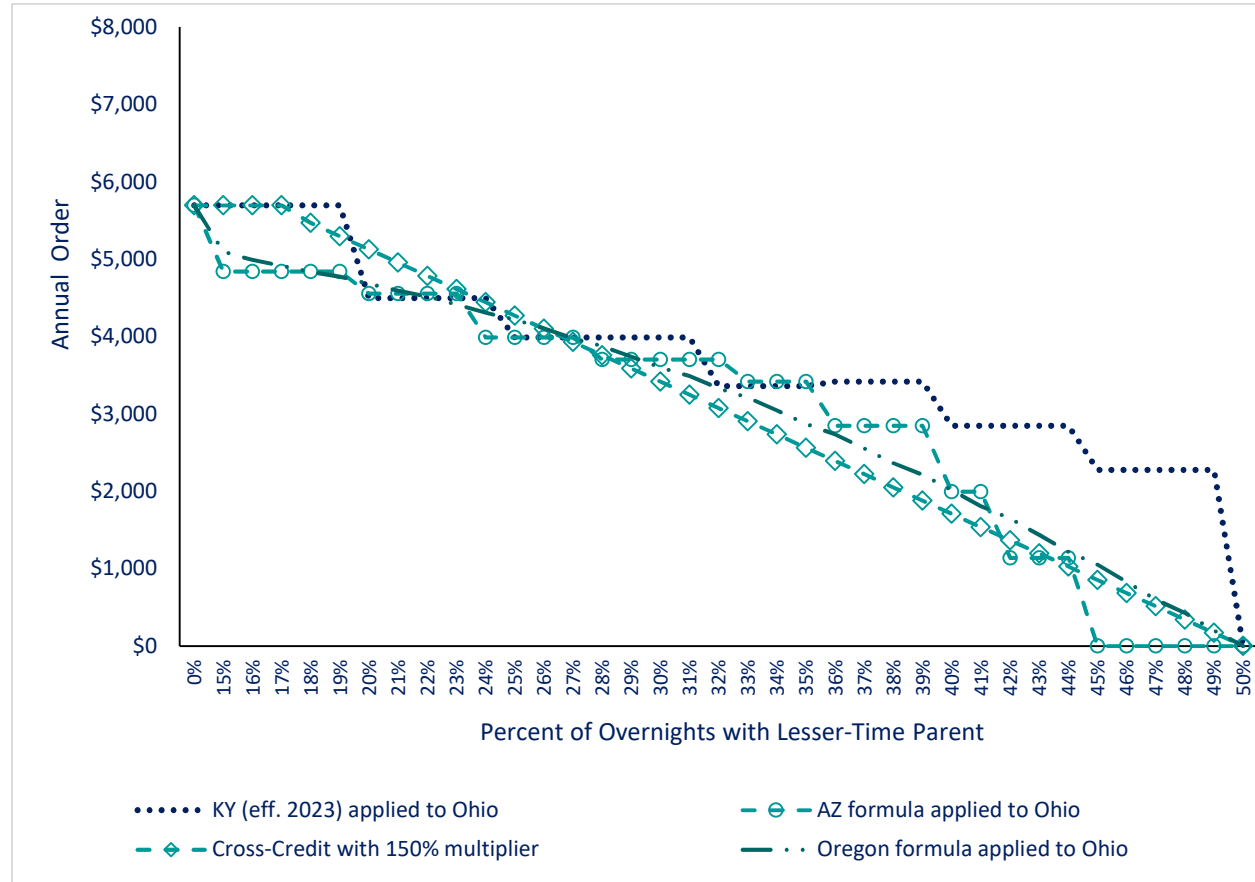
#### Strength of Percentage/Sliding Scale Percentage Formula

- Simple to calculate and understand

#### Limitations of Percentage/Sliding Scale Percentage Formula

- “Cliff effects” between overnight intervals are unavoidable;
- Theoretical basis less clear than the cross-credit; and
- Does not allow flipping of paying-parent when greater-time parent is also the parent with greater income.

**Exhibit 25: Illustration of the Staircase Nature of the Sliding-Scale Percentage Formula Using a Case Scenario Involving Parents with Equal Incomes**



### Formulas that Consider Transferable and Fixed Expenses

Indiana, Missouri, and New Jersey formulas are based on the concept that some child-rearing expenditures are transferable between parents while others are fixed, yet the formulas vary significantly. The original Arizona timesharing formula was also based on transferable- and fixed-expenditures concept. Over the years, however, Arizona has modified its timesharing formula extensively. The existing Arizona timesharing formula is essentially a lookup table and has no mention of transferable or fixed expenditures.

Exhibit 26 shows the different breakdowns among transferable (variable); fixed, duplicated, and fixed, non-duplicated child-rearing expenses used by different states and studies.



**Exhibit 26: Percentage of Child-Rearing Expenditures Deemed to Be Transferable and Duplicated**

	<b>Transferable (Variable)</b>	<b>Fixed Duplicated</b>	<b>Fixed Non-Duplicated</b>	<b>Source</b>	<b>Notes</b>
AZ <sup>113</sup>	38% (Food home and away and household operations and utilities)	28% (furnishings and shelter), but rounded up to 30% initially	34% (all other expenses <sup>114</sup> )	1995 analysis by Professor Shockey, University of Arizona using 1991 Consumer Expenditure Survey data	No longer adhered to; converted to sliding scale that has been modified several times since originally adapted in the late 1990s
IN	35% (food and transportation)	50% (shelter)	15% (clothing, education, school books and supplies, ordinary uninsured health care and personal care)	Thomas Espenshade (1984)	Fixed, non-duplicated are called “controlled” expenses.  6% uninsured healthcare expenses
MO	30%	38%	32%	Looked at other states, and designed to create gradual change	Converted to a sliding scale similar to Arizona
NJ	37% (food and transportation)	37% (housing)	25% (clothing, personal care, entertainment, and miscellaneous)	USDA (early 1990s—exact year is unknown)	
Melli & Brown (1994) <sup>115</sup>	Estimated 40%–50% (food, recreation, and some transportation)	Estimated at 25%–33% (utilities, household furnishing, pay and study space, toys and play equipment)	Estimated 25% (clothing, medical care, childcare, and school expenses)	Unknown (possibly Espenshade)	

At low levels of time-sharing, the adjustment is for transferable expenses only. When time-sharing becomes more substantial, the adjustment also considers duplicated, fixed expenses. Variable expenses are those that are transferable between the parents, depending on which parent has time with the child. For example, food expenses are typically considered a variable child-rearing expense. If one parent buys the child food, there is no need for the other parent to purchase food also. Duplicated,

<sup>113</sup> Shockey, J. W. (1995). *Determining the Cost of Raising Children in Nonintact Arizona Households*, Report to Arizona Judicial Council, University of Arizona Department of Sociology, p. 27.

<sup>114</sup> Although not explicitly stated, this would be apparel, transportation, reading and entertainment, healthcare, and other using Shockey’s categories on page 9 of his report.

<sup>115</sup> Melli, Marygold S., & Brown, Patricia. R. (1994). “The Economics of Shared Custody: Developing an Equitable Formula for Dual Residence.” 31 *Hous. L. Rev.* 543.

fixed costs are those child-rearing expenses that both parents incur and the other parent's time with the child does not reduce that expense for the first parent (e.g., housing for the child). Non-duplicated, fixed costs are child-rearing expenses that are not affected by the parent's time and are not duplicated. For example, the child has one set of clothes that are generally not duplicated. Due to the non-duplicated, fixed costs, one parent even in equal custody and equal income situations, incurs more child-rearing expenditures. That is, one parent buys the child's clothes, cell phone, and other non-duplicated, fixed items. This means the order is never zero in Indiana when the parents have equal incomes and equal timesharing.

#### Indiana Formula

The Indiana adjustment is rooted in work by Professor David Betson, University of Notre Dame, who developed the measurements of child-rearing expenditures underlying most state guidelines. The Indiana formula is premised on a consideration of three types of child-rearing expenditures:

- Transferable (variable) expenses;
- Duplicated, fixed expenses; and
- Non-duplicated, fixed expenses.<sup>116</sup>

Indiana's existing formula consists of a worksheet with percentage adjustments, which are shown in Exhibit 27. The most unusual part of the Indiana parenting-time adjustment is the controlled expenses. On the one hand, this means the formula does not produce a zero order when there is equal custody and equal timesharing. On the other hand, it clarifies which parent is responsible for some of the child-rearing expenses that are not always clearly allocated (e.g., which parent is responsible for purchasing the child's prom dress and which parent is responsible for purchasing the child's cell phone), since these are controlled expenses.

The Indiana formula to adjust the child support order for timesharing complements the Indiana parenting time guidelines that is used to help parents develop a parenting plan that spells out each parent's time with the child including holidays and pickup and drop-off times. Indiana strongly encourages the use of its parenting-time guidelines to establish a parenting plan and encourages that the parties file the parenting plan with the courts. Appendix D shows the link and table of contents to the parenting-time guidelines. (The actual guidelines are not attached because of their length.) The amount of time designated in the parenting-time plan is often used in the parenting-time formula to calculate the support order.

#### *Comparison of Indiana, Missouri, and New Jersey*

Exhibit 28 uses a case example where the parents have equal incomes to illustrate that the order amount never goes to zero when using these formulas unless there is a guidelines deviation. This is

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<sup>116</sup> Indiana Rules of Court. (Oct. 2016). Child Support Rules and Guidelines. Retrieved from

[https://www.in.gov/judiciary/rules/child\\_support/#g6](https://www.in.gov/judiciary/rules/child_support/#g6).

because of controlled expenses (i.e., there is always one parent who picks up the school fees or cellphone for the child).

**Exhibit 27: Indiana Parenting-Time Worksheet and Percentage Adjustment Table**

Line:						
1PT	Enter Annual Number of Overnights					
2PT	Enter Weekly Basic Child Support Obligation – BCSO (Enter Line 4 from Child Support Worksheet)					
3PT	Enter Total Parenting Time Expenses as a Percentage of the BCSO (Enter Appropriate TOTAL Entry from Table PT)					
4PT	Enter Duplicated Expenses as a Percentage of the BCSO (Enter Appropriate DUPLICATED Entry from Table PT)					
5PT	Parent's Share of Combined Weekly Income (Enter Line 2 from Child Support Worksheet)					
			Percentage Adjustment			
			ANNUAL OVERNIGHTS			DUPLICATED
6PT	Average Weekly Total Expenses during Parenting Time (Multiply Line 2PT times Line 3PT)		FROM	TO	TOTAL	
			1	51	0	0
			52	55	0.062	0.011
			56	60	0.07	0.014
			61	65	0.08	0.02
			66	70	0.093	0.028
			...	...	...	..
			151	155	0.623	0.476
			156	160	0.634	0.483
			161	165	0.644	0.488
			166	170	0.652	0.491
			171	175	0.66	0.494
			176	180	0.666	0.495
			181	183	0.675	0.5
7PT	Average Weekly Duplicated Expenses (Multiply Line 2PT times Line 4PT)					
8PT	Parent's Share of Duplicated Expenses (Multiply Line 5PT times Line 7PT)					
9PT	Allowable Expenses during Parenting Time (Line 6PT – Line 8PT)					
	Enter Line 9PT on Line 7 of the Child Support Worksheet as the Parenting Time Credit					

#### Strengths of Transferable/Fixed Cost Formulas

- Has a theoretical basis;
- Considers breakdown of actual child-rearing expenditures; and
- By definition, makes it clear which parent is responsible for the child's clothing and school expenses.

#### Limitations of Transferable/Fixed Cost Formulas

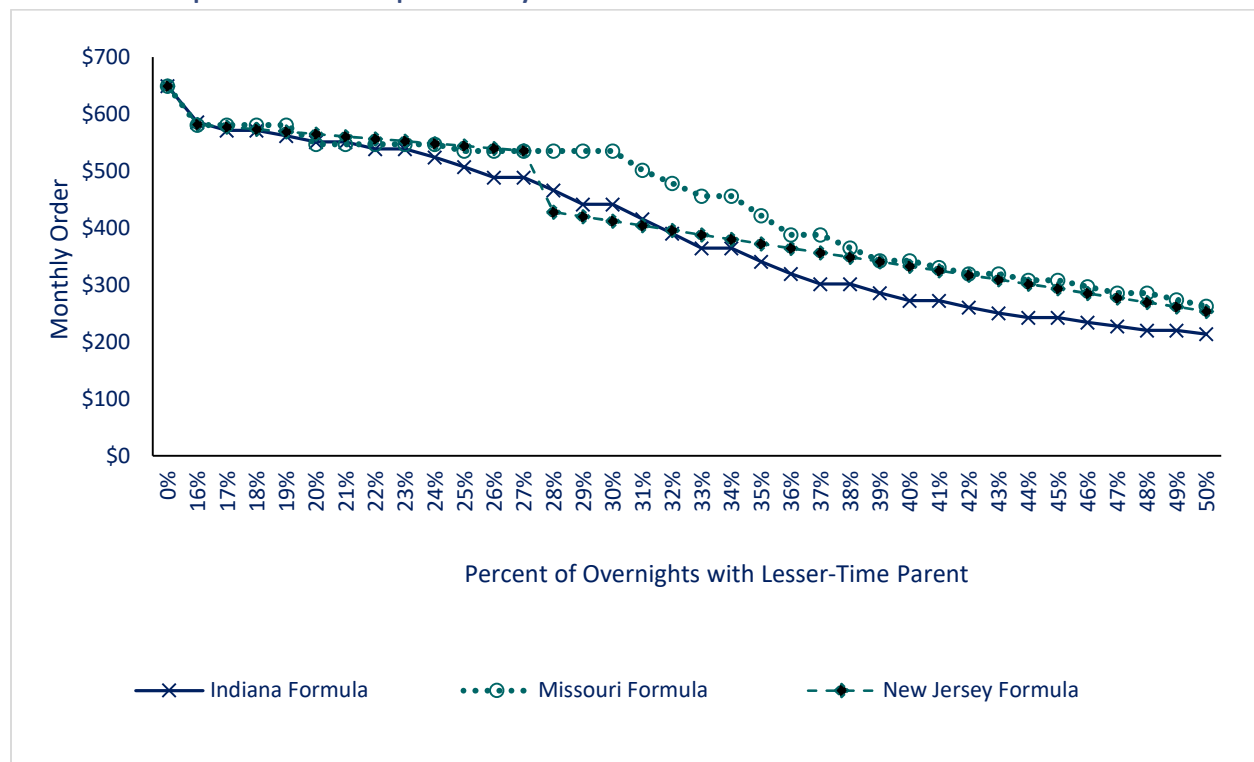
- Complicated to calculate;

- Does not allow for a zero order when there is equal income and equal custody (which is actually an arguable limitation depending on the policy perspective); and
- Does not always flip the paying-parent when greater-time parent is also the parent with greater income. (The Indiana formula can mathematically, but the Missouri formula cannot.)

Determining which parent is responsible for controlled expenses can be challenging, but both Indiana and Missouri provide clear guidance. Indiana has almost two decades of experience with the successful implementation of its adjustment, which complements its parenting time guidelines and encouragement of the filing of a parenting plan with the courts. Missouri just adopted its adjustment and does not have statewide parenting-time guidelines.

Whether the formula does not result in a zero order when there is equal income and equal timesharing is a strength or weakness depends on the policy perspective. Similarly, whether the formula not allowing for the flipping of the paying-parent from the mother to the father or vice versa is a strength or weakness is also a policy perspective.

**Exhibit 28: Illustration of how “Controlled Expenses” in Timesharing Adjustment Do Not Allow for a \$0 Order when There Is Equal Income and Equal Custody<sup>117</sup>**



<sup>117</sup> Adapted from Oldham, Thomas, & Venohr, Jane. (May 2021). “The Relationship between Child Support and Parenting Time.” *Family Law Quarterly*. Volume 43, Number 2. Available at <https://centerforpolicyresearch.org/publications/the-relationship-between-child-support-and-parenting-time/>.

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## Non-Linear Formulas

In contrast to sliding-scale formulas, “non-linear” formulas do not produce the staircase effect with more parenting days. Usually, this is achieved by using exponential functions or taking something to the power of another value (e.g., squared when something is multiplied by itself and cubed when something is multiplied by itself thrice). Michigan, Minnesota, and Oregon use nonlinear formulas.

### Minnesota/Michigan Formula

After forming a legislated committee that extensively investigated alternative formulas, Minnesota decided to adopt Michigan’s formula at the time. Minnesota’s formula is shown below.

$$\frac{(A_o)^3(B_s)^3 - (B_o)^3(A_s)^3}{(A_o)^3 + (B_o)^3}$$

Where

A<sub>o</sub> – Approximate annual number of overnights the children will spend with parent A

B<sub>o</sub> – Approximate annual number of overnights the children will spend with parent B

A<sub>s</sub> – Parent A’s base support obligation

B<sub>s</sub> – Parent B’s base support obligation

As Minnesota deliberated the Michigan formula, Michigan changed its parameter from taking the number of overnights and base support obligations to the third power (as noted by the “3” in superscript) to a power of 2.5. The base of the formula is essentially a cross-credit. Taking it to the third power (or 2.5th power) results in a gradual decrease when the paying-parent has more time with the child. The higher the power, the more gradual the adjustment. Michigan originally started with using the second power, switched to the third power, and then settled to a power of 2.5. Minnesota extensively reviewed several formulas, including the Oregon formula, and, using different powers with the Michigan formula, it eventually settled on using the third power.<sup>118</sup>

### Oregon Formula

Oregon consulted with a mathematics professor to develop an adjustment that gradually changes as the paying-parent had more time with the child, but results in a zero order when the parents have equal time with the child and equal incomes.<sup>119</sup> The Oregon formula<sup>120</sup> for determining each parent’s parenting time credit percentage is:

$$1/(1+e^{(-7.14*((\text{overnights}/365)-0.5))})-2.74\%+(2*2.74\%*(\text{overnights}/365))$$

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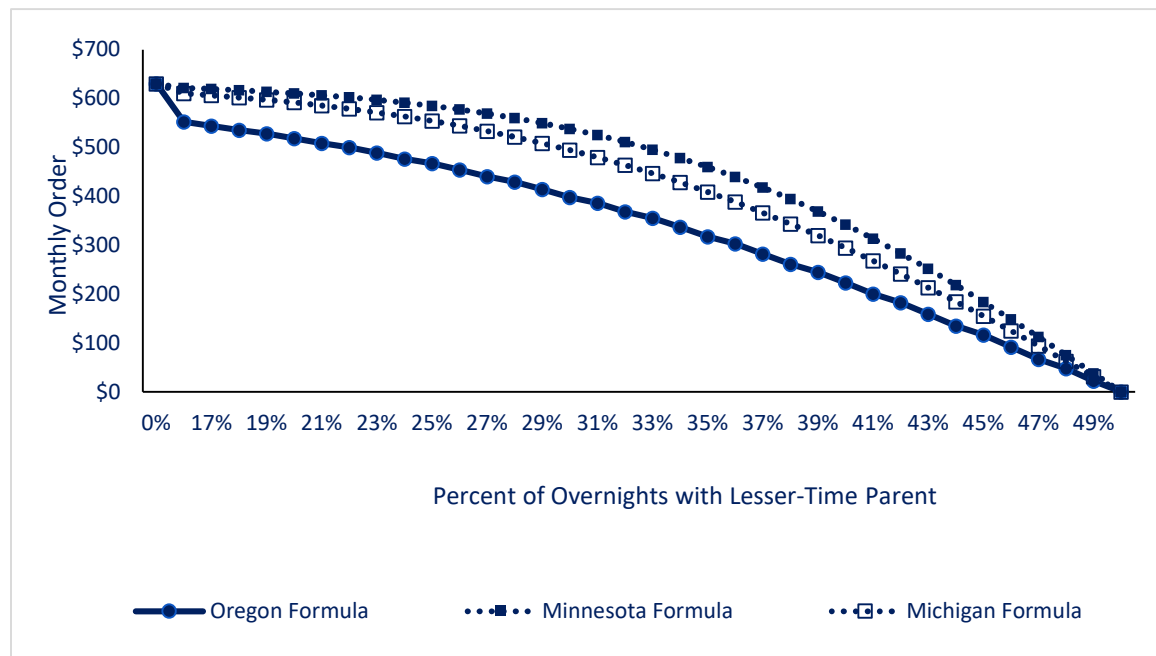
<sup>118</sup> Minnesota Department of Human Services Child Support Work Group. (Jan. 29, 2016) *Child Support Work Group Final Report*. Retrieved from <https://www.leg.state.mn.us/docs/2016/mandated/160242.pdf>.

<sup>119</sup> Oregon Guidelines Advisory Committee. (May 27, 2012). *Oregon Child Support Program 2011-12 Child Support Guidelines Review: Report and Recommendations*. Retrieved from [https://justice.oregon.gov/child-support/pdf/guidelines\\_advisory\\_committee\\_report\\_and\\_recommendations\\_2011-12.pdf](https://justice.oregon.gov/child-support/pdf/guidelines_advisory_committee_report_and_recommendations_2011-12.pdf).

<sup>120</sup> Oregon Child Support Guidelines Rule OAR 137-050-07030. Retrieved from <https://justice.oregon.gov/child-support/pdf/137-050-0730.pdf>.

Oregon converted the formula into a table for ease of use. (Appendix C contains an excerpt of the table.) It results in a 0.07 percent credit for one overnight per year, a 0.14 percent credit for two overnights per year, a 0.21 percent credit for three overnights per year, and so forth up to a 49.75 percent credit for 182 overnights—effectively a 50.0 percent credit for 182.5 overnights.

**Exhibit 29: Illustration of Non-Linear Timesharing Formulas Using a Case Scenario Where the Parents Have Equal Income<sup>121</sup>**



#### Strengths of Non-Linear Formulas

- No cliff (precipitous decrease) with more time;
- Oregon believes its formula has reduced litigation since it was adopted;
- Can adjust for one night (which is an arguable strength depending on the policy perspective); and
- Produces \$0 order when equal income and equal custody (which is an arguable strength depending on the policy perspective).

#### Limitations of Transferable/Fixed Cost Formulas

- Complicated to calculate; and
- Difficult to explain.

#### Per Diem and Other Formulas

The Tennessee formula is a variation of a per-diem adjustment. Several state guidelines provide a per-diem adjustment, which essentially is a percentage adjustment for timesharing above a state-

<sup>121</sup> Adapted from Oldham, Thomas, & Venohr, Jane. (May 2021). "The Relationship between Child Support and Parenting Time." *Family Law Quarterly*. Volume 43, Number 2. Available at <https://centerforpolicyresearch.org/publications/the-relationship-between-child-support-and-parenting-time/>.

determined threshold. Under the Tennessee parenting-time formula, the paying-parent gets an adjustment based on the other parent's prorated share of the following: the paying-parent's number of overnights multiplied by 0.0109589 multiplied by the basic obligation (table amount) minus the basic obligation (table amount). Tennessee's formula only works for timesharing of 25 percent or more. It results in no adjustment if the obligee has no income. However, it produces a zero order when there is equal timesharing and equal income. The Tennessee guidelines presume standard parenting of 80 overnights per year. The formula applies when the number of overnights is 92 or more.

#### Strength of Per Diem Adjustment

- Per-diem concept is simple.

#### Limitations of Per Diem Adjustment

- Calculation of per diem amount is not simple to explain;
- Amount of adjustment does not become larger with more time; and
- Produces a zero adjustment when the obligee has no income (which is an arguable limitation depending on the policy perspective).

### TIMESHARING FORMULAS IN NEIGHBORING STATES

[Exhibit 30](#) compares features of Ohio's timesharing formula to that of neighboring states and Oregon, which is a formula many states (Kentucky, Minnesota, and Colorado) have considered or recommended as their timesharing adjustment. Kentucky adapted a simpler adjustment. Minnesota adopted a formula with a theoretical basis. Colorado is still deliberating.

As evident in [Exhibit 30](#), all states bordering Ohio provide for different timesharing formulas and different thresholds at which the formula applies. The timesharing thresholds range from one overnight for Michigan's adjustment to apply to 40 percent for Pennsylvania's adjustment to apply. All but the Michigan formula require a parenting-time order to apply the adjustment. Kentucky will not apply the adjustment if the children are enrolled in TANF, SNAP, Medicaid, or CHIP. The Indiana, Michigan and West Virginia formula will flip the parent obligated to pay support if the greater-time parent has significantly more income than the other parent.

Exhibit 30: Comparison of Timesharing Adjustments in Selected States

State	Indiana	Kentucky (eff. 2023)	Michigan	Ohio	Penn.	West Virginia	Oregon
<b>Timesharing Formula Type</b>	Formula based on transferable and fixed expenses <sup>122</sup>	Sliding scale percentage	Non-linear math formula	Two-tiered approach: percentage adjustment and deviation	Per diem	Cross-credit with 1.5 multiplier	Sigmoid Function <sup>123</sup>
<b>Timesharing Threshold (per year)</b>	52 or more overnights (14%)	73 or more overnights	No threshold necessary	90 overnights or more (25%)	40% timesharing or more	127 overnights or more (35%)	1 overnight or more
<b>Exercised or Court-Ordered Time</b>	Court-ordered <sup>124</sup>	Court-ordered	Evidence if available	Court-ordered	Not specified	Actual	Court-ordered or agreed-to parenting time
<b>Other Criteria when applying</b>	Consideration of “ability to support the child”	Does not apply if the children are receiving Medicaid/CHIP, SNAP, or TANF; court discretion if the paying-parent is low income, geographical distance, and other factors	None	None	None	None	None
<b>\$0 order when = custody and = income?</b>	No, unless deviation	Yes	Yes	No, unless deviation	No	Yes	Yes
<b>Can the paying-parent flip to the</b>	Yes, mathematically	No	Yes	No	No	Yes	Yes

<sup>122</sup> Transferable expenses are those “transferred” between parents due to time with the child (e.g., the cost of the child’s food); duplicated fixed are incurred by both parents (e.g., cost of the child’s housing); and controlled expenses are not transferred or duplicated (e.g., cost of the child’s clothing). Indiana assumes that transferred expenses comprise 35 percent of the table amounts, duplicated fixed comprise 50 percent, and controlled expenses comprise the remaining 15 percent.

<sup>123</sup> A sigmoid function is essentially a curve shaped like an “S.” Oregon uses it to describe its relationship between the parenting-time adjustment and the amount of time with the parent of the child’s alternate residence. See Oregon Guidelines Advisory Committee. (May 27, 2012.) *Oregon Child Support Program 2011-12 Child Support Guidelines Review: Report and Recommendations*. Retrieved from [https://justice.oregon.gov/child-support/pdf/guidelines\\_advisory\\_committee\\_report\\_and\\_recommendations\\_2011-12.pdf](https://justice.oregon.gov/child-support/pdf/guidelines_advisory_committee_report_and_recommendations_2011-12.pdf).

<sup>124</sup> Indiana has parenting plan guidelines. An agreed-to parenting plan can be entered at same time as child support.



State	Indiana	Kentucky (eff. 2023)	Michigan	Ohio	Penn.	West Virginia	Oregon
other parent?							
Provisions for if timesharing does not occur?	Yes; can be subject to reduction or loss of credit, etc.	Yes	Yes	No	No	No	No
Provisions for Financial Responsibility of Specific Expenses	Yes	Yes	None mentioned	No	No	Yes	No
Consideration of Transportation Expenses for Timesharing	Yes	No	No	No	No	No	No

Unlike most states, Ohio and many of its neighboring states address when timesharing does not occur as considered in the order calculation.

#### Exhibit 31: Provisions for when Timesharing Does Not Occur in Selected States

Indiana	A parent who does not carry out the parenting time obligation may be subject to a reduction or loss of the credit, financial restitution, or any other appropriate remedy. However, missed parenting time because of occasional illness, transportation problems or other unforeseen events should not constitute grounds for a reduction or loss of the credit, or financial restitution.
Kentucky	Failure by one party to consistently comply with the parenting schedule shall be grounds for the other party to seek modification from the court. A party may seek modification following a 15% change in the number of timesharing days and shall have the burden of providing a material change in circumstances.
Michigan	If a substantial difference occurs in the number of overnights used to set the order and those actually exercised (at least 21 overnights or that causes a change of circumstances exceeding the modification threshold (\$4.05)), either parent or a support recipient may seek adjustment by filing a motion to modify the order. 3.03(E) So the court can know if circumstances have changed at the time of a subsequent determination, every child support order must indicate whether it includes a parental time offset and the number of overnights used in its calculation.
Ohio	B) At the request of the obligee, a court may eliminate a previously granted adjustment established under division (A) of this section if the obligor, without just cause, has failed to exercise court-ordered parenting time.

#### Addressing Specific Expenses

A common issue to equal custody cases is who is to incur specific expenses such as extracurricular activities and the cost of transporting the child from one parent's care to the other parent's care. Indiana avoids this issue directly through controlled expenses. New Hampshire's provision about these expenses is noted in Appendix C.

The excerpt from the Indiana formula explains how the parent with controlled expenses, who is the parent to receive support, is determined.

When both parents equally share parenting time, the court must determine which parent will pay the controlled expenses. If, for example, father is the parent paying controlled expenses, the parenting time credit will be awarded to the mother.

Factors courts should use in assigning the controlled expenses to a particular parent include the following areas of inquiry:

- Which parent has traditionally paid these expenses.
- Which parent is more likely to be able to readily pay the controlled expenses.
- Which parent more frequently takes the child to the health care provider.
- Which parent has traditionally been more involved in the child's school activities (since much of the controlled expenses concern school costs, such as clothes, fees, supplies, and books).

This determination requires a balancing of these and other factors. Once the court assigns responsibility for these controlled expenses, the court should award the other

parent the parenting time credit. When the assignment of the controlled expenses occurs, calculation of the child support in shared custody situations is fairly basic, and is completed by application of the remainder of these Guidelines.

In contrast, Kentucky notes that the parent with the child's care at the time will be responsible for incurring the child's housing, entertaining, feeding, transporting, and extracurricular activities. West Virginia provides for the proration of extraordinary child-rearing expenses such as unreimbursed child healthcare expenses, work-related childcare expenses, and any other agreed-to extraordinary expenses to be prorated between the parents in both basic and shared parenting cases. New Hampshire's parenting plan template and deviation criteria for the parenting plan require specification of most of these expenses.

#### SUMMARY OF POSSIBLE FACTORS TO CONSIDER IN TIMESHARING ADJUSTMENTS

The Council may want to identify a list of factors, such as the list below, if there is interest in modifying the existing approach or replacing it.

1. Is the current approach appropriate, just, and in the best interest of the child?
2. What are the appropriate criteria for applying the adjustment (e.g., court-ordered shared custody arrangement, agreed-to-by-parents, or actual)?
  - a. How do the criteria align with local parenting-time guidelines and the establishment/modification of parenting-time orders?
  - b. How do criteria align with judicial/administrative process for establishing/modifying child support orders?
  - c. If "actual timesharing is considered," what evidence is appropriate (see Michigan's provision)?
3. Should the adjustment be applied at judicial discretion or presumptively?
4. How should "days" or "overnights" be defined and non-traditional work schedules/timesharing arrangements be addressed?
5. What should the basis of the actual formula be? Is it appropriate to have two different formulas (as Minnesota use to and Iowa and North Dakota still do)?
  - a. Is it important for the formula to have a theoretical basis at the expense of being simple?
  - b. Is it important for the formula to be explainable?
  - c. Should the formula be limited to one that can be calculated manually?
6. Is a timesharing threshold necessary for the adjustment? If so, what should it be?
7. Should the formula produce a zero order when parents have equal incomes and timesharing is 50/50 percent or does one parent have "controlled" expenses (i.e., one parents buys clothes and cellphone—assuming child has one—and picks up school fees)?

8. Should certain types of child-rearing expenses (e.g., extracurricular expenses and transportation) be addressed in shared-custody adjustments? (See New Hampshire provision in Appendix C.)
9. Is a separate worksheet or automated calculator feasible?
10. Is it appropriate and just for a parent to receive a parenting-time adjustment *and* low-income adjustment?
11. Is it appropriate and just to apply adjustment only if the custodial household's income is above a certain threshold?
12. How should modification of the order be addressed if timesharing does not occur as considered in the order? How can it work within existing Ohio's current legal process?

## SECTION 5: CONCLUSIONS

This report addresses the following technical issues:

- Fulfilling the federal requirement (45 C.F.R. § 302.56(h)(1)) to consider economic data on the cost of raising children as part of a state's child support guidelines review;
- Fulfilling the federal requirement (45 C.F.R. § 302.56(h)(1)) to analyze labor market data as part of a state's child support guidelines review; and
- Comparing Ohio's approach for adjusting for shared physical custody to those of other states, particularly neighboring states.

### ECONOMIC EVIDENCE ON THE COST OF CHILDREN AND THE CHILD SUPPORT SCHEDULE

Federal regulation requires states to consider economic data on the cost of raising children as part of their quadrennial review. This is required even though Ohio state statute directs ODJFS to update the schedule every four years using a statutory formula that relates to gross income and changes in the Consumer Price Index. The existing child support schedule and the statutory formula were developed from data available in 2015. It became effective in 2019; the next update is in 2023. The 2022 review, however, provides an opportunity to re-assess the statutory formula particularly since much has changed since the formula was developed.

The formula was developed from numerous assumptions including an economic study of child-rearing expenditures that was conducted in 2010 and federal and state income tax rates in 2015. The tax assumptions are of particular concern since federal tax rates changed in 2018 due to major tax reform. Another concern is recent inflation, which is high. To assess the statutory formula, an updated schedule is developed using a more current economic study on child-rearing expenditures, current federal and state income taxes, current price levels, and Ohio's price parity. The amounts are similar to a schedule based on the statutory formula using 2022 price levels. The only exception is at high income. The statutorily updated schedule is less than an updated schedule using more current data at very high incomes.

Another concern with the statutory formula is the low-income adjustment that is incorporated into it. It includes a self-support reserve (SSR) equivalent to 115 percent of the federal poverty guidelines for one person, a minimum order of \$80 per month for incomes below that, and a phase-out formula to the schedule amounts based on economic evidence on what families actually spend on children. The SSR aligns to levels of other states, the minimum order is a little high (\$50 per month is the more common), and Ohio's phase-out is one of most generous of any state. It results in the phase-out occurring above incomes greater than \$100,000 for larger family sizes. This is arguably not low income. Due to this, an alternative phase-out is also reviewed in this report.

#### FINDINGS FROM THE ANALYSIS OF LABOR MARKET DATA

Federal regulation requires the analysis of labor market data. The intent is to gather information about the employability of low-skilled workers within a state to help inform income imputation provisions and the low-income adjustment. In most states, many parents with government child support cases have barriers to employment and earnings including limited job skills, low educational attainment, history of incarceration, and other barriers.

Although state data are not available, national data finds that 35 percent of parents not living with at least one of their children have incomes below 200 percent of poverty, almost half have a high school degree or less, and they are less likely to work full-time and year-round. Labor market data reveals that many low-skilled and low-paying jobs do not offer a 40-hour work week or an opportunity for paid work each week of the year. The average number of hours worked per week in Ohio is 34.3 hours per week. The average hours worked is significantly less in some industries, particularly those paying low wages (e.g., the average hours worked per week in Ohio leisure and hospitality was 22.6 hours per week). Exacerbating the issue is that employment opportunities in Ohio are more limited than in the U.S. as a whole. This is evident by Ohio's higher unemployment rate, which was 4.2 percent in October 2022, while it was 3.7 percent for the nation as a whole in October 2022.

#### FINDINGS FROM THE ANALYSIS OF TIMESHARING ADJUSTMENTS IN STATE GUIDELINES

Adjustments for shared-parenting time are important. Research generally shows that children do better when both parents are in their children's lives, even if the parents live apart. Timesharing arrangements and the amount vary among from case to case. Not all cases have a timesharing agreement or order. The situation differs remarkably between ever-married and never-married parents, partially due to the different legal processes. Another factor that contributes to differences is differences between Ohio counties in parenting-time guidelines. In all, the variation challenges whether one formula can be developed that appropriately serve all timesharing scenarios.

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##### Overview of Timesharing Formulas and Provisions in State Guidelines

Federal regulation requires each state to have presumptive, rebuttal child support guidelines that must be applied to all legal proceedings within a state where child support is an issue. It does not require a state guidelines to include a timesharing formula. Nonetheless, 41 states (including Ohio) and the District of Columbia provide a timesharing formula within their guidelines. Most states apply their timesharing formula as a rebuttal presumptive formula if certain criteria are met. The most common criterion is court-ordered timesharing. The most common formula is a "cross-credit formula," which is essentially a theoretical order calculated for each parent, in which each parent's theoretical order is weighed by the percentage of the child's time with the other parent and is then offset. It is used in 22 states. The strength of the cross-credit is that it is theoretical, sensible, and explainable. Some of its limitations are that it requires another worksheet, and, depending on the incomes of the parents and the timesharing threshold for its application, it can produce a significant reduction in the support order at that timesharing threshold. Some believe that significant reductions (also called "cliff effects") can encourage parental conflict about the timesharing arrangement right around that threshold.

The other 19 states (including Ohio) generally have unique formula to their states. Except for the formula used by both Michigan and Minnesota, no two timesharing formulas look alike. Ohio's formula consists of a simple 10 percent reduction for timesharing of 90 overnights or more per year. Ohio also provides for a deviation for more timesharing and the consideration of a deviation when there is about equal timesharing. Ohio is not the only state to have a two-tier approach that provides for a deviation at equal timesharing.

#### Timesharing Formulas of Neighboring States

All states bordering Ohio (i.e., Indiana, Kentucky, Michigan, Pennsylvania, and West Virginia) provide timesharing formulas and thresholds at which the formula applies that differ from each other and Ohio. The timesharing thresholds range from one overnight for Michigan's adjustment to 40 percent for Pennsylvania's adjustment. All but Michigan and West Virginia require a parenting-time order to apply the adjustment. Kentucky will not apply the adjustment if the children are enrolled in TANF, SNAP, Medicaid, or CHIP. The Michigan and West Virginia formula will flip the parent obligated to pay support if the greater-time parent has significantly more income than the other parent. The Kentucky, Michigan, and West Virginia formulas will provide a zero order when there is equal income and equal custody. The Indiana and Pennsylvania formulas will not.

#### Key Variations in State Timesharing Formula

The formulas vary in their simplicity, theoretical basis, and outcomes. Some are easier to explain or calculate than others. Some apply when there is as little as one overnight per year and others require about 50/50 percent equal custody before they apply. Many timesharing formulas will produce a zero order when there is equal custody and equal income. Some do not. Some of those that do not clearly state that the policy assumption is that there is always one parent who incurs more child-rearing expenses than the other, even in equal shared-custody cases. That parent incurs more child-rearing expenses may be the one the child uses as the school residence or incurs the cost of school fees, the child's cell phone (assuming the child has one), and other expenses that are only incurred by one parent. In general, there appears to be trade-offs between keeping the formula simple and providing a timesharing formula that can address the variety of circumstances of child support cases where timesharing is an issue and the various concerns about timesharing adjustments.

#### Public Comments about Ohio's Timesharing Adjustment

This report also summarizes the 24 comments pertaining to timesharing that Ohio received during its public comment period for its state child support guidelines review. Ohio received over 2,000 public comments. The majority of the 24 comments were received by parents who paid support. The most common suggestion was to set the child support order at zero when there is equal (50/50) timesharing.

#### Recommended Considerations for Assessing a State's Timesharing Formula and Alternatives

Based on the analysis of other state's adjustment, a list of policy considerations was developed to help Ohio decide if their current adjustment is appropriate and, if not, what timesharing formula would better serve Ohio families and children. The list is provided at the end of the Section 5.

## CONCLUSION

The statutory formula to periodically update the schedule appears to work. It is designed to update the schedule administratively every four years. It was tested against a schedule using more current economic data. The differences were generally small, with the exception at very high incomes.

This report also reviews timesharing adjustments in other state guidelines. It uses it to develop a list of considerations when reviewing and developing timesharing adjustments. It may be used as a resource by the 2023 workgroup reviewing Ohio's timesharing formula. The workgroup consists of volunteers recruited from the Ohio Child Support Advisory Council.



## APPENDIX A: TECHNICAL DOCUMENTATION OF UPDATE FOR BR5

There are several technical considerations and steps taken to update a child support schedule. Exhibit A-1 shows the national data that Betson provided CPR to convert the BR5 measurements to a child support schedule that is adjusted for Ohio prices using Ohio's price parity.

### Overview of Income Ranges

For Exhibit A-1, Betson provided CPR with information for 25 income ranges that were generally income intervals of \$5,000 to \$20,000 per year. CPR collapsed a few of them to average out some anomalies (e.g., a spike in the percentage of total expenditures devoted to child-rearing expenditures once childcare and extraordinary medical expenses were excluded from a particular income range). The collapsing resulted in the 20 income ranges shown in Exhibit A-1.

**Exhibit A-1: Parental Expenditures on Children and Other Expenditures by Income Range Used in the BR5 Measurements (National Data)**

Column A	Col. B	Col. C	Col. D.	Col. E	Col. F	Col. G	Col. H	Col. I
Annual After-Tax Income Range (2020 dollars)	Number of Observations	Total Expenditures as a % of After-Tax Income	Expenditures on Children as a % of Total Consumption Expenditures (Rothbarth 2013–2019 data)			Childcare \$ as a % of Consumption (per child)	Total Medical \$ as a % of Consumption	
			1 Child	2 Children	3 Children		(per capita)	(per child)
\$ 0 – \$19,999	283	>200%	22.433%	34.670%	42.514%	0.473%	0.870%	3.005%
\$20,000 – \$29,999	306	134.235%	23.739%	36.642%	44.893%	0.437%	0.894%	3.208%
\$30,000 – \$34,999	306	107.769%	24.057%	37.118%	45.462%	0.407%	1.047%	3.722%
\$35,000 – \$39,999	409	103.780%	24.222%	37.364%	45.755%	0.647%	1.390%	4.878%
\$40,000 – \$44,999	428	100.064%	24.362%	37.571%	46.002%	0.721%	1.468%	5.301%
\$45,000 – \$49,999	416	97.195%	24.452%	37.705%	46.161%	0.747%	1.539%	5.485%
\$50,000 – \$54,999	399	92.716%	24.509%	37.789%	46.261%	0.855%	1.609%	5.887%
\$55,000 – \$59,999	367	90.548%	24.580%	37.894%	46.386%	1.210%	2.166%	7.389%
\$60,000 – \$64,999	335	86.130%	24.615%	37.945%	46.447%	0.776%	2.071%	7.474%
\$65,000 – \$69,999	374	84.016%	24.668%	38.025%	46.541%	1.255%	2.114%	7.525%
\$70,000 – \$74,999	333	82.671%	24.725%	38.108%	46.640%	1.586%	2.121%	7.375%
\$74,999 – \$84,999	615	82.690%	24.820%	38.249%	46.807%	1.743%	2.343%	7.894%
\$85,000 – \$89,999	318	78.663%	24.863%	38.311%	46.880%	1.392%	2.155%	8.331%
\$90,000 – \$99,999	565	76.240%	24.912%	38.384%	46.966%	1.658%	2.000%	7.888%
\$100,000 – \$109,999	493	75.488%	24.996%	38.508%	47.113%	2.159%	1.946%	7.121%
\$110,000 – \$119,999	374	73.058%	25.054%	38.593%	47.213%	2.523%	1.942%	7.583%
\$120,000 – \$139,999	468	71.731%	25.142%	38.722%	47.365%	2.477%	1.893%	6.494%
\$140,000 – \$159,999	240	70.658%	25.266%	38.904%	47.579%	3.073%	1.855%	7.516%
\$160,000 – \$199,999	512	62.753%	25.322%	38.986%	47.676%	1.790%	1.806%	7.037%
\$200,000 or more	498	58.427%	25.571%	39.350%	48.103%	2.459%	1.554%	6.501%

There are five general steps in the conversion of the BR estimates to a schedule.

1. Use the information from Exhibit A-1 to develop percentages that exclude childcare and medical expenses.
2. Adjust to after-tax income.

3. Extend to more children
4. Adjust for current price levels and create marginal percentages.
5. Adjust for gross incomes.

#### STEP 1: EXCLUDE CHILDCARE AND HEALTHCARE EXPENSES

Before an adjustment is made to the percentages shown in Columns D, E, and F in Exhibit A-1, an additional adjustment is made to per capita healthcare expenses shown in Column H, which considers the per capita, out-of-pocket healthcare expenses in the household regardless whether the expense is for an adult or child. Generally, out-of-pocket expenses are more for adults than children. The adjustment is to estimate a per child amount that is shown in Column I.

Based on the 2017 National Medical Expenditure survey, the annual out-of-pocket medical expense per child is \$270, while it is \$615 for an adult between the ages of 18 and 64. In other words, an adult's out-of-medical expenses is 2.28 more than that of a child's. To arrive at per child amount the per capita amount is adjusted by a weighted amount for family size. This is shown in Column I.

The adjusted per child amount is calculated by using the total percentage for one, two or three children (columns D, E or F) and subtracting childcare expenses (the number of children multiplied by Column G), and subtracting the healthcare expenses (the number of children multiplied by Column I).

#### STEP 2: CONVERT TO AFTER-TAX INCOME

The next step is to convert the percentage from above to an after-tax income by multiplying it by expenditures to after-tax income ratios in Column C. When the ratio exceeds 100 percent, which means that families of that income range spend more than their income on average, it is capped at 100 percent. The policy premise is that families should be required to spend more than their income.

#### STEP 3: EXTEND TO MORE CHILDREN

Most of the measurements only cover one, two, and three children. The number of families in the CE with four or more children is insufficient to produce reliable estimates. For many child support guidelines, the National Research Council's (NRC) equivalence scale, as shown below, is used to extend the three-child estimate to four and more children.<sup>125</sup>

$$= (\text{number of adults} + 0.7 \times \text{number of children})^{0.7}$$

Application of the equivalence scale implies that expenditures on four children are 11.7 percent more than the expenditures for three children, expenditures on five children are 10.0 percent more than the expenditures for four children, and expenditures on six children are 8.7 percent more than the expenditures for five children.

<sup>125</sup> Citro, Constance F. & Robert T. Michael (eds.). (1995). *Measuring Poverty: A New Approach*. National Academy Press. Washington, D.C.

#### STEP 4: UPDATE TO CURRENT PRICE LEVELS AND DEVELOP MARGINAL PERCENTAGES

The income bands are first updated to October 2022 price level, then marginal percentages are computed to create a tax table-like table of proportions. Marginal percentages are created by interpolating between income ranges. For the highest income range, the midpoint was supplied by Betson: \$258,887 per year in May 2020 dollars.

#### STEP 5: ADJUST FOR GROSS INCOME

Federal and state income withholding formulas are to back out gross income amounts that appear in the schedule to after-tax income. In turn, table of marginal percentages is used like a tax-table to create basic obligations for a particular gross income.

Using federal and state income tax withholding formulas and assuming all income is taxed at the rate of a single tax filer with earned income is a common assumption among most states and the assumption underlying the existing Ohio schedule. Most alternative federal tax assumptions would result in more after-tax income—hence, higher schedule amounts. For example, the District of Columbia assumes the tax-filing status is for a married couple claiming the number of children for whom support is being determined. The District used this assumption prior to 2018 tax reform that eliminated the federal tax allowance for children and expanded the federal child tax credit from \$1,000 per child to \$2,000 per child and higher for tax year 2021. The 2018 federal tax changes are scheduled to expire in 2025.

The federal income withholding formula provides for different formulas depending on which year of the IRS W-4 form the employer uses to calculate income tax withholding. The alternative formulas produce the same amounts at lower and middle incomes, but there are slight differences at very high incomes. The IRS developed alternative methods to accommodate sweeping tax reform that became effective January 1, 2018, due to the Tax Cuts and Jobs Act of 2017 (Pub. L. 115-97), which increased the standard deduction and repealed personal exemptions. Earlier IRS W-4 forms still accommodate personal exemptions; the 2020 and later W-4 forms do not. It is assumed that the 2020 W-4 (or later) form is used and the manual percentage method formula for a single taxpayer is used. For state income taxes, one exemption is used. This is consistent with the federal withholding formula and previous conversions.

Since the income conversion assumes single tax filing status, there is no adjustment for the child tax credit or the Earned Income Tax Credit (EITC). The child tax credit would be impossible to include in the schedule since it applies to one parent and that parent's income must be within a certain range to receive the full child tax credit and another range to receive a partial child tax credit (which the IRS calls the additional child tax credit). In contrast, the schedule considers the combined gross income of the parents. Say the combined income of the parents is \$150,000 per year. If the parents have equal incomes (\$75,000 per year), either parent's income would make them income-eligible for the full child tax credit. Say, however, that the paying-parent's income is \$150,000 and the other has no income, the parent without income would not be income-eligible for the child tax credit. The EITC is not considered

because it is a means-tested program. Most states do not consider mean-tested income to be income available for child support.

The pro of considering an alternative tax assumption such as assuming the tax-filing status is married better aligns with the economic measurements of child-rearing expenditures because the measurements consider households in which the parents and children live together, so they would probably file as a married couple. They also could be set up to include the federal child tax credit, the additional child tax credit, the earned income tax credit, or a combination of these child-related tax credits. The cons are that this would be a change in the previous assumption that is not necessarily justifiable and may not be consistent with current practices.

### **Parenting Time Adjustment**

Discussion of parenting time has centered around two parenting time ranges: standard and extended. This section addresses a standard parenting time adjustment to appear on the worksheet and an extended parenting time adjustment in the form of a revised deviation requirement for parenting time.

The 2009 Guidelines Report contained the following concise statement of the rationale supporting a parenting time adjustment:

An underlying assumption built into the basic child support schedule is that the child is constantly in the custodial parent's household and that all costs for raising the child are assumed by the custodial parent. Variable costs (such as food and shelter) which follow the child from household to household and increase proportional to the amount of time the child is in the household of the noncustodial parent, are not considered, thus the noncustodial parent does not retain any of the annual child support obligation to cover the costs. The guidelines do not adjust the annual obligation based on the time the child spends in the noncustodial parent's household. (p. 62)

The Deviation Study in Appendix E supports including a parenting time adjustment as a part of the child support guidelines worksheet. The current study, and the previous studies conducted for past guideline reviews, uniformly identify "extended parenting time or costs associated with parenting time" as the deviation reason used most often by courts to adjust the obligation from the presumptively correct amount.

The Department recommends that the child support guidelines worksheets be amended to include a fixed adjustment for standard parenting time orders. The worksheets should incorporate an adjustment to reflect the time spent in each parent's home where there is a parenting time order in effect. There should be a standard adjustment for those cases with parenting time orders based on a local model order and an enhanced deviation adjustment for those cases that involve an extended parenting time order.



## Parenting Time Adjustment

**Issue:** An underlying assumption built into the basic child support schedule is that the child is constantly in the custodial parent's household and that all costs for raising the child are assumed by the custodial parent. Variable costs (such as food and shelter) which follow the child from household to household and increase proportional to the amount of time the child is in the household of the noncustodial parent, are not considered, thus the noncustodial parent does not retain any of the annual child support obligation to cover the costs. The guidelines do not adjust the annual obligation based on the time the child spends in the noncustodial parent's household. The duplicate costs of having the child in two separate households makes it more expensive to raise a child in two households than one.

**Discussion:** From the onset, the Council identified a continuum of parenting time beginning with the standard parenting time order (which in Ohio ranges from 20-28% of the time) and extending to a shared parenting agreement which may reach or exceed 40% parenting time. Based on feedback from the public, the experiences and observations of members of the Council, and the work of previous Councils, the Council concluded that a two-fold approach is necessary to bring equity to parenting time.

1. A standard adjustment for those cases with standard parenting time order.
2. A standard methodology for calculating an adjustment for those cases that involve a shared parenting order

The Council also how the law should treat circumstances in which parenting time as ordered, is not exercised. It was agreed that the adjustment for parenting time is predicated on parenting time actually being exercised and that if the noncustodial parent failed to exercise the parenting time, there should be a mechanism for the custodial parent to have the parenting time adjustment removed.

### **Options:** Standard Parenting Time Order

Option One: Take no action.

Option Two: When there is a standard parenting time order, the noncustodial parent's annual obligation should be reduced by 8.75% of the total annual obligation.

### Shared Parenting Time Order

Option One: Take no action

Option Two: When parenting time exceeds 40%, the noncustodial parent's annual obligation should be reduced by 8.75% of the total annual obligation.

Option Three: When parenting time exceeds 40%, adjust the noncustodial parent's obligation by offsetting the larger child support obligation with the smaller obligation.

Option Four: When parenting time exceeds 40%, multiply the total annual obligation by a factor of 1.5, then adjust the noncustodial parent's obligation by

## APPENDIX C: EXCERPTS OF STATE GUIDELINES

(3.8) Shared physical care. If each parent exercises 146 or more overnights per year with the child, the basic child support obligation is multiplied by 1.5 to calculate the shared care child support obligation. The court shall determine each parent's share of the shared care child support obligation based on the parent's percentage share of combined net income. The child support obligation is then computed for each parent by multiplying that parent's portion of the shared care support obligation by the percentage of time the child spends with the other parent. The respective child support obligations are then offset, with the parent owing more child support paying the difference between the child support amounts. The Illinois Department of Healthcare and Family Services shall promulgate a worksheet to calculate child support in cases in which the parents have shared physical care and use the standardized tax amount to determine net income.

(3.9) Split physical care. When there is more than one child and each parent has physical care of at least one but not all of the children, the support is calculated by using 2 child support worksheets to determine the support each parent owes the other. The support shall be calculated as follows:

(A) compute the support the first parent would owe to other parent as if the child in his or her care was the only child of the parties; then

(B) compute the support the other parent would owe to the first parent as if the child in his or her care were the only child of the parties; then

(C) subtract the lesser support obligation from the greater.

The parent who owes the greater obligation shall be ordered to pay the difference in support to the other parent, unless the court determines, pursuant to other provisions of this Section, that it should deviate from the guidelines.

**Commentary**

**Analysis of Support Guidelines.** The Indiana Child Support Guidelines are based on the assumption the child(ren) live in one household with primary physical custody in one parent who undertakes all of the spending on behalf of the child(ren). There is a rebuttable presumption the support calculated from the Guideline support schedule is the correct amount of weekly child support to be awarded. The total amount of the anticipated average weekly spending is the Basic Child Support Obligation (Line 4 of the Worksheet).

The Guideline support schedules do not reflect the fact, however, when both parents exercise parenting time, out-of-pocket expenses will be incurred for the child(ren)'s care. These expenses were recognized previously by the application of a 10% visitation credit and a 50% abatement of child support during periods of extended visitation. The visitation credit was based on the regular exercise of alternate weekend visitation which is equivalent to approximately 14% of the annual overnights. With the adoption of the Indiana Parenting Time Guidelines, the noncustodial parent's share of parenting time, if exercised, is equivalent to approximately 27% of the annual overnights. As a result, these revisions provide a parenting credit based upon the number of overnights with the noncustodial parent ranging from 52 overnights annually to equal parenting time. As parenting time increases, a proportionally larger increase in the credit will occur.

<sup>126</sup> 750 ILCS 5/505 (from Ch. 40, par. 505). Retrieved from <http://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=075000050K505>.

<sup>127</sup> Indiana Rules of Court *Child Support Rules and Guidelines* (Adopted Effective October 1, 1989 including Amendments Received through January 1, 2016. Retrieved from [https://www.in.gov/judiciary/rules/child\\_support/](https://www.in.gov/judiciary/rules/child_support/)

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**Analysis of Parenting Time Costs.** An examination of the costs associated with the sharing of parenting time reveals two types of expenses are incurred by both parents, transferred and duplicated expenses. A third category of expenses is controlled expenses, such as the 6% uninsured health care expense that remains the sole obligation of the parent for whom the parenting time credit is not calculated. This latter category is assumed to be equal to 15% of the Basic Child Support Obligation.

**Transferred Expenses.** This type of expense is incurred only when the child(ren) reside(s) with a parent and these expenses are “transferred” with the child(ren) as they move from one parent’s residence to the other. Examples of this type of expense are food and the major portion of spending for transportation. When spending is transferred from one parent to the other parent, the other parent should be given a credit against that parent’s child support obligation since this type of expense is included in the support calculation schedules. When parents equally share in the parenting, an assumption is made that 35% of the Basic Child Support Obligation reflects “transferred” expenses. The amount of expenses transferred from one parent to the other will depend upon the number of overnights the child(ren) spend(s) with each parent.

**Duplicated Fixed Expenses.** This type of expense is incurred when two households are maintained for the child(ren). An example of this type of expense is shelter costs which are not transferred when the child(ren) move(s) from one parent’s residence to the other but remain fixed in each parent’s household and represent duplicated expenditures. The fixed expense of the parent who has primary physical custody is included in the Guideline support schedules. However, the fixed expense of the other parent is not included in the support schedules but represents an increase in the total cost of raising the child(ren) attributed to the parenting time plan. Both parents should share in these additional costs.

When parents equally share in the parenting, an assumption is made that 50% of the Basic Child Support Obligation will be “duplicated.” When the child(ren) spend(s) less time with one parent, the percentage of duplicated expenses will decline.

**Controlled Expenses.** This type of expense for the child(ren) is typically paid by the custodial parent and is not transferred or duplicated. Controlled expenses are items like clothing, education, school books and supplies, ordinary uninsured health care and personal care. For example, the custodial parent buys a winter coat for the child. The noncustodial parent will not buy another one. The custodial parent controls this type of expense. “Education” expenses include ordinary costs assessed to all students, such as textbook rental, laboratory fees, and lunches, which should be paid by the custodial parent. The cost of participating in elective school activities such as sports, performing arts and clubs, as well as related extracurricular activities are “optional” activities covered by the paragraph on “Other Extraordinary Expenses” in Guideline 8.

The controlled expenses account for 15% of the cost of raising the child. The parenting time credit is based on the more time the parents share, the more expenses are duplicated and transferred. The controlled expenses are not shared and remain with the parent that does not get the parenting time credit. Controlled expenses are generally not a consideration unless there is equal parenting time. These categories of expenses are not pertinent for litigation. They are presented only to explain the factors used in developing the parenting time credit formula. The percentages were assigned to these categories after considering the treatment of joint custody by other states and examining published data from the Bureau of Labor Statistics’ Consumer Expenditure Survey.

**Computation of Parenting Time Credit.** The computation of the parenting time credit will require a determination of the annual number of overnights of parenting time exercised by the parent who is to pay child support, the use of the standard Child Support Obligation Worksheet, a Parenting Time Table, and a Parenting Time Credit Worksheet.

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An overnight will not always translate into a twenty-four-hour block of time with all of the attendant costs and responsibilities. It should include, however, the costs of feeding and transporting the child, attending to school work and the like. Merely providing a child with a place to sleep in order to obtain a credit is prohibited.

The Parenting Time Table (Table PT) begins at 52 overnights annually or the equivalent of alternate weekends of parenting time only. If the parenting plan is for fewer overnights because the child is an infant or toddler (Section II A of the Parenting Time Guidelines), the court may consider granting the noncustodial parent an appropriate credit for the expenses incurred when caring for the child. If the parenting plan is for fewer overnights due to a significant geographical distance between the parties, the court may consider granting an appropriate credit. The actual cost of transportation should be treated as a separate issue.

If the parents are using the Parenting Time Guidelines without extending the weeknight period into an overnight, the noncustodial parent will be exercising approximately 96-100 overnights. The actual number of overnights may vary based on differing school calendars.

**Parenting Time Table.** The TOTAL column represents the anticipated total out-of-pocket expenses expressed as a percentage of the Basic Child Support Obligation that will be incurred by the parent who will pay child support. The total expenses are the sum of transferred and duplicated expenses. The DUPLICATED column represents the duplicated expenses and reflects the assumption that when there is an equal sharing of parenting time, 50% of the Basic Child Support Obligation will be duplicated. The Number of Annual Overnights column will determine the particular fractions of TOTAL and DUPLICATED to be used in the Parenting Time Credit Worksheet.

ANNUAL OVERNIGHTS		TOTAL	DUPLICATED
FROM	TO		
1	51	0	0
52	55	0.062	0.011
56	60	0.07	0.014
61	65	0.08	0.02
66	70	0.093	0.028
71	75	0.108	0.038
76	80	0.127	0.052
81	85	0.15	0.07
86	90	0.178	0.093
91	95	0.211	0.122
96	100	0.25	0.156
101	105	0.294	0.195
106	110	0.341	0.237
111	115	0.388	0.28
116	120	0.434	0.321
121	125	0.476	0.358
126	130	0.513	0.39
131	135	0.544	0.417
136	140	0.57	0.438
141	145	0.591	0.454
146	150	0.609	0.467
151	155	0.623	0.476
156	160	0.634	0.483
161	165	0.644	0.488
166	170	0.652	0.491

171	175	0.66	0.494
176	180	0.666	0.495
181	183	0.675	0.5

**Parenting Time Credit Worksheet (Credit Worksheet).** In determining the credit, take the following steps:

1. Complete the Child Support Obligation Worksheet through Line 6.
2. Enter on Line 1PT of the Credit Worksheet the annual number of overnights exercised by the parent who will pay child support.
3. Enter on Line 2PT of the Credit Worksheet the Basic Child Support Obligation (Line 4 from the Child Support Obligation Worksheet).
4. Enter on Line 3PT of the Credit Worksheet the figure from the TOTAL column that corresponds to the annual overnights exercised by the parent who will pay child support.
5. Enter on Line 4PT of the Credit Worksheet the figure from the DUPLICATED column that corresponds to the annual number of overnights exercised by the parent who will pay child support.
6. Enter on Line 5PT of the Credit Worksheet the percentage share of the Combined Weekly Income of the parent who will pay child support (Line 2 of the Child Support Obligation Worksheet).
7. Complete Lines 6PT through 9PT to determine the allowable credit.
8. Enter the result from Line 9PT on Line 7 of the Child Support Obligation Worksheet as the Parenting Time Credit.
9. Apply the Line 7 Adjustments to determine the recommended Child Support Obligation (Line 8 of the Child Support Obligation Worksheet).

Line:		
1PT	Enter Annual Number of Overnights	
2PT	Enter Weekly Basic Child Support Obligation – BCSO (Enter Line 4 from Child Support Worksheet)	
3PT	Enter Total Parenting Time Expenses as a Percentage of the BCSO (Enter Appropriate TOTAL Entry from Table PT)	
4PT	Enter Duplicated Expenses as a Percentage of the BCSO (Enter Appropriate DUPLICATED Entry from Table PT)	
5PT	Parent's Share of Combined Weekly Income (Enter Line 2 from Child Support Worksheet)	
6PT	Average Weekly Total Expenses during Parenting Time (Multiply Line 2PT times Line 3PT)	
7PT	Average Weekly Duplicated Expenses (Multiply Line 2PT times Line 4PT)	
8PT	Parent's Share of Duplicated Expenses (Multiply Line 5PT times Line 7PT)	

9PT	Allowable Expenses during Parenting Time (Line 6PT – Line 8PT)	
	Enter Line 9PT on Line 7 of the Child Support Worksheet as the Parenting Time Credit	

**Application of Parenting Time Credit.** Parenting Time Credit is not automatic. The court should determine if application of the credit will jeopardize a parent's ability to support the child(ren). If such is the case, the court should consider a deviation from the credit.

The Parenting Time Credit is earned by performing parental obligations as scheduled and is an advancement of weekly credit. The granting of the credit is based on the expectation the parties will comply with a parenting time order.

A parent who does not carry out the parenting time obligation may be subject to a reduction or loss of the credit, financial restitution, or any other appropriate remedy. However, missed parenting time because of occasional illness, transportation problems or other unforeseen events should not constitute grounds for a reduction or loss of the credit, or financial restitution.

Consistent with Parenting Time Guidelines, if court action is initiated to reduce the parenting time credit because of a failure to exercise scheduled parenting time, the parents shall enter mediation unless otherwise ordered by the court.

**Contents of Agreements/Decrees.** Orders establishing custody and child support shall set forth the specifics of the parties' parenting time plan in all cases. A reference to the Indiana Parenting Time Guidelines will suffice if the parties intend to follow the Guidelines. All such entries shall be accompanied by a copy of the Child Support Obligation Worksheet and the Parenting Time Credit Worksheet.

In every instance the court shall designate one parent who is receiving support and shall be responsible for payment of the uninsured health care expenses up to 6% of the Basic Child Support Obligation.

If the court determines it is necessary to deviate from the parenting time credit, it shall state its reasons in the order.

**Child Support When Parenting Time is Equally Shared.** A frequent source of confusion in determining child support arises in cases where parents equally share the parenting time with the children. Parenting time is considered equally shared when it is 181 to 183 overnights per year. To determine child support in these cases, either the mother or father must be designated as the parent who will pay the controlled expenses. Then, the other parent is given the parenting time credit. The controlled expenses remain the sole obligation of the parent for whom the parenting time credit is not calculated.

When both parents equally share parenting time, the court must determine which parent will pay the controlled expenses. If, for example, father is the parent paying controlled expenses, the parenting time credit will be awarded to the mother.

Factors courts should use in assigning the controlled expenses to a particular parent include the following areas of inquiry:

- Which parent has traditionally paid these expenses.
- Which parent is more likely to be able to readily pay the controlled expenses.
- Which parent more frequently takes the child to the health care provider.

- Which parent has traditionally been more involved in the child's school activities (since much of the controlled expenses concern school costs, such as clothes, fees, supplies, and books).

This determination requires a balancing of these and other factors. Once the court assigns responsibility for these controlled expenses, the court should award the other parent the parenting time credit. When the assignment of the controlled expenses occurs, calculation of the child support in shared custody situations is fairly basic and is completed by application of the remainder of these Guidelines.

**Cost of Transportation for Parenting Time.** The Parenting Time Guidelines require the noncustodial parent to provide transportation for the child(ren) at the start of the scheduled parenting time, and the custodial parent to provide transportation for the child(ren) at the end of the scheduled parenting time. There is no specific provision in the Child Support Guidelines for an assignment of costs or a credit for transportation on the child support worksheet. Transportation costs are part of the transferred expenses. When transportation costs are significant, the court may address transportation costs as a deviation from the child support calculated by the Worksheet or may address transportation as a separate issue from child support. Consideration should be given to the reason for the geographic distance between the parties and the financial resources of each party. The relocation statute provides that one factor in modifying child support in conjunction with parent relocation is the hardship and expense involved for the nonrelocating individual to exercise parenting time.

Kentucky	<p>03.2121 Establishment of adjustment to child support obligations based upon parenting time -- Authority to promulgate administrative regulations --</p> <p>Children receiving public assistance. (Effective until March 31, 2023)</p> <p>(1) Except as provided in subsection (4) of this section or otherwise provided in this chapter, the child support obligation determined under KRS 403.212 shall be subject to further adjustment as follows:</p> <p>(a) If the parents share equal parenting time, the child support obligation determined under KRS 403.212 shall be divided between the parents in proportion to their combined monthly adjusted parental gross income, and the parent with the greater proportional child support obligation shall pay the parent with the lesser proportional obligation the difference in the value of each parent's proportional obligation; and</p> <p>(b) If the parents share unequal parenting time under either a court-ordered timesharing schedule or a time-sharing schedule exercised by agreement of the parties, the court shall:</p> <ol style="list-style-type: none"> <li>1. Calculate the child support obligation set forth in the child support guidelines table in accordance with KRS 403.212;</li> <li>2. Determine the percentage of overnight stays the child spends with each parent on an annual basis based upon the time-sharing order or agreement;</li> <li>3. Multiply each parent's support obligation as calculated under KRS 403.212 by the percentage of the other parent's overnight stays as calculated in subparagraph 2. of this paragraph;</li> <li>4. Set the difference between the amounts calculated in subparagraph 3. of this paragraph as the monetary transfer or credit necessary between the parents for the care of the child; and</li> <li>5. Use its discretion in adjusting each parent's child support obligation under this paragraph in accordance with the factors under KRS 403.212, and the following: <ul style="list-style-type: none"> <li>a. The obligated parent's low income and ability to maintain the basic necessities of the home for the child;</li> </ul> </li> </ol>
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- b. The likelihood that either parent will actually exercise the time-sharing schedule set forth in the court-ordered time-sharing schedule or time-sharing agreement between the parents;
- c. Whether all of the children are exercising the same time-sharing schedule; and
- d. Whether the time-sharing plan results in fewer overnights due to a significant geographical distance between the parties that may affect the child support obligation.

(2) As used in this section, unless the context requires otherwise, an "overnight stay" shall include the costs associated with feeding and transporting the child, entertainment, attending to school work, athletic events, extracurricular activities, or

KY Effective April 2023 (House bill 501)

14        ~~(1)(i)~~ "Split custody arrangement" means a situation where each parent has  
15        sole custody and decision-making authority while the child or children is in  
16        his or her residence. Visitation only occurs when the child is in residence  
17        with the other parent. ~~[is the residential custodian for one (1) or more children~~  
18        ~~for whom the parents share a joint legal responsibility.]~~  
19        (4) Any child support obligation shall be calculated by using the number of children  
20        for whom the parents share a joint legal responsibility.

1 (1) For purposes of this section, "day":

2 (a) Means more than twelve (12) consecutive hours in a twenty-four (24) hour  
3 period under the care, control, or direct supervision of one (1) parent or  
4 caretaker, or as the court determines based on findings of substantially  
5 equivalent care or expense; and

6 (b) Unless the context requires otherwise, includes housing, entertaining,  
7 feeding, and transporting the child, attending to school work, athletic  
8 events, extracurricular activities, or other activities that transfer with the  
9 child as he or she moves from one parent to the other;

10 (2) (a) In order to receive a shared parenting time credit, a parent shall maintain  
11 care, custody, and control over the child for a minimum of seventy-three  
12 (73) days per year, as defined by this section.

13 (b) The shared parenting time credit shall only be applicable for parenting time  
14 that is court-ordered or approved and consistently exercised.

15 (3) Except as provided in subsection (6) of this section or otherwise provided in this  
16 chapter, the child support obligation determined under Section 1 of this Act shall  
17 be subject to further adjustment as follows:

18 (a) For parents who share parenting time under either a court-ordered time-  
19 sharing schedule or a time-sharing schedule exercised by agreement of the  
20 parties, the court shall:

21 1. a. Calculate the child support obligation set forth in the child  
22 support guidelines table in accordance with subsection (5)(a) of  
23 Section 1 of this Act using the combined gross adjusted income  
24 of the parties;

25 b. If both parents exercise fifty percent (50%) of their parenting  
26 time, the parent with the higher gross monthly income shall be  
27 considered the obligor;

- 1            2. Determine the number of days for both parents on an annual basis
- 2            based upon either a court-ordered time-sharing schedule or a time-
- 3            sharing schedule exercised by agreement of the parties;
- 4            3. Using the days a child spends with the obligated parent, determine the
- 5            adjustment percentage using the shared parenting time credit chart in
- 6            subsection (4) of this section;
- 7            4. Determine the shared parenting time credit adjustment by multiplying
- 8            the obligated parent's adjustment percentage by the total support
- 9            obligation found on the child support obligation worksheet to establish
- 10           the shared parenting expense adjustment for the obligated parent, as
- 11           determined in subparagraph 1. of this paragraph; and
- 12           5. Subtract the amount calculated in subparagraph 4. of this paragraph
- 13           from the obligated parent's monthly obligation, found on the child
- 14           support obligation worksheet, as determined in subparagraph 1. of
- 15           this paragraph;
- 16           (b) The court may use its discretion in adjusting each parent's child support
- 17           obligation under this paragraph in accordance with the factors proscribed
- 18           in this section, and the following:
- 19           1. The obligated parent's low income and ability to maintain the basic
- 20           necessities of the home for the child;
- 21           2. The likelihood that either parent will actually exercise the time-
- 22           sharing schedule set forth in the court-ordered time-sharing schedule
- 23           or time-sharing agreement between the parents;
- 24           3. Whether all of the children are subject to the same time-sharing
- 25           schedule;
- 26           4. Whether the time-sharing plan results in fewer overnights due to a
- 27           significant geographical distance between the parties that may affect



	<p>1                    <u>the child support obligation; and</u></p> <p>2                    <u>5. The military deployment or extended service obligations of the parties;</u></p> <p>3                    <u>and</u></p> <p>4                    <u>(c) The self-support reserve, as calculated under subsection (5)(b) of Section 1</u></p> <p>5                    <u>of this Act, and the shared parenting time credit, as calculated under this</u></p> <p>6                    <u>subsection, shall not be applied together. The obligor shall be responsible</u></p> <p>7                    <u>for the lesser support amount as determined under subsection (5)(c) of</u></p> <p>8                    <u>Section 1 of this Act.</u></p> <p>9                    <u>(4) The shared parenting time credit chart is as follows:</u></p> <table border="1"> <thead> <tr> <th><u>Parenting Time Days</u></th><th><u>Adjustment Percentage</u></th></tr> </thead> <tbody> <tr> <td><u>73-87</u></td><td><u>10.5%</u></td></tr> <tr> <td><u>88-115</u></td><td><u>15%</u></td></tr> <tr> <td><u>116-129</u></td><td><u>20.5%</u></td></tr> <tr> <td><u>130-142</u></td><td><u>25%</u></td></tr> <tr> <td><u>143-152</u></td><td><u>30.5%</u></td></tr> <tr> <td><u>153-162</u></td><td><u>36%</u></td></tr> <tr> <td><u>163-172</u></td><td><u>42%</u></td></tr> <tr> <td><u>173-181</u></td><td><u>48.5%</u></td></tr> <tr> <td><u>182-182.5</u></td><td><u>50%</u></td></tr> </tbody> </table> <p>20                    <u>(5) Failure by one (1) party to consistently comply with the parenting schedule shall</u></p> <p>21                    <u>be grounds for the other party to seek modification from the court. A party may</u></p> <p>22                    <u>seek modification following a fifteen percent (15%) change in the number of</u></p> <p>23                    <u>timesharing days and shall have the burden of proving a material change in</u></p> <p>24                    <u>circumstances.</u></p> <p>25                    <u>(6) This section shall not apply if the child or children subject to the child support</u></p> <p>26                    <u>award receive public assistance, including;</u></p> <p>27                    <u>(a) Kentucky Children's Health Insurance Program (KCHIP);</u></p> <p>                      <u>(b) Kentucky Transitional Assistance Program (K-TAP);</u></p> <p>                      <u>(c) Supplemental Nutrition Assistance Program (SNAP); or</u></p> <p>                      <u>(d) Medicaid.</u></p>	<u>Parenting Time Days</u>	<u>Adjustment Percentage</u>	<u>73-87</u>	<u>10.5%</u>	<u>88-115</u>	<u>15%</u>	<u>116-129</u>	<u>20.5%</u>	<u>130-142</u>	<u>25%</u>	<u>143-152</u>	<u>30.5%</u>	<u>153-162</u>	<u>36%</u>	<u>163-172</u>	<u>42%</u>	<u>173-181</u>	<u>48.5%</u>	<u>182-182.5</u>	<u>50%</u>
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Michigan	<p>3.03 Adjusting Base Obligation with the Parental Time Offset 3.03(A) Presuming that as parents spend more time with their children they will directly contribute a greater share of the children's expenses, a base support obligation needs to offset some of the costs and savings associated with</p>																				



time spent with each parent. (The supplement to this manual contains a graph and other information about adjusting support payments for parenting time.) (1) Base support mainly considers the cost of supporting a child who lives in one household. When a parent cares for a child overnight, that parent should cover many of the child's unduplicated costs, while the other parent will not have to spend as much money for food, utility, and other costs for the child. (2) Apply the following Parental Time Offset Equation to adjust base support to reflect some of the cost shifts and savings associated with the child spending time with both parents:

$$\frac{(Ao)^{2.5} \cdot (Bs) - (Bo)^{2.5} \cdot (As)}{(Ao)^{2.5} + (Bo)^{2.5}}$$

Ao = Approximate annual number of overnights the children will likely spend with parent A.

Bo = Approximate annual number of overnights the children will likely spend with parent B

As = Parent A's base support obligation

Bs = Parent B's base support obligation

Note: A negative result means that parent A pays and a positive result means parent B pays.

### 3.03(B) Application

(1) An offset for parental time generally applies to every support determination whether in an initial determination or subsequent modification, whether or not previously given.

(2) The parental time offset does not apply when a nonparent has custody of a child. (§1.04(E)(16) and (§4.01(A)). 3.03(C) Apply the parental time offset to adjust a base support obligation whenever the approximate annual number of overnights that each parent will likely provide care for the children-in-common can be determined. When possible, determine the approximate number based on past practice.

(1) When different children spend different numbers of overnights with the parents, use the average of the children's overnights.

(2) Absent credible evidence of changed practices, presume the same approximate number that was used in determining the most recent support order.

(3) In cases without a past determination or other credible evidence, presume the approximate number of overnights granted in the terms of the current custody or parenting time order.

(4) Credit a parent for overnights a child lawfully and actually spends with that parent including those exercised outside the terms of the currently effective order. This may happen by agreement, or when one parent voluntarily foregoes time granted in the order. Do not consider overnights exercised in violation of an order.

(a) If a parent produces credible evidence that the approximate number exercised differs from the number granted by the custody or parenting time order, credit the number according to the evidence without requiring someone to formally petition to modify the custody or parenting time order.

(b) When the most recent support order deviated based on an agreement to use a number of overnights that differed from actual practice, absent some other change warranting modification, credible evidence of changed practices only includes an order changing the custody or parenting time schedule.

3.03(D) If a substantial difference occurs in the number of overnights used to set the order and those actually exercised (at least 21 overnights or that causes a change of circumstances

exceeding the modification threshold (\$4.05)), either parent or a support recipient may seek adjustment by filing a motion to modify the order.

3.03(E) So the court can know if circumstances have changed at the time of a subsequent determination, every child support order must indicate whether it includes a parental time offset and the number of overnights used in its calculation

Line 11: Adjustment for a portion of amounts expended by the parent obligated to pay support during periods of overnight visitation or custody

Number of Overnights	Adjustment
Less than 36	0%
36-72	6%
73-91	9%
92-109	10%
110-115	13%
116-119	15%
120-125	17%
126-130	20%
131-136	23%
137-141	25%
142-147	27%
148-152	28%
153-158	29%
159-164	30%
165-170	31%
171-175	32%
176-180	33%
181-183	34%

**DIRECTION:** Enter the monthly amount of any adjustment to which the parent obligated to pay support is entitled for a portion of the amounts expended on the children who are the subject of this proceeding during that parent's periods of overnight visitation or custody. The adjustment shall be calculated by multiplying the basic child support amount from line 5 by the applicable adjustment from the table below. **This adjustment is based on the number of periods of overnight visitation or custody per year awarded to and exercised by the parent obligated to pay support under any order or judgment.** The fact that one or more children subject to the support order are over 18, and pursuant to Section 452.310.11 RSMo, no overnight custody or visitation has been ordered for the child or children over 18, does not preclude application of the adjustment when

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circumstances would support an adjustment for periods of overnight time spent with the obligated parent. If the court finds that application of these rules, including the line 11 credit, are unjust and inappropriate, it may apply an overnight visitation or custody adjustment of over 34% and up to 50% based upon the circumstances of the parties. In particular, in deciding whether to apply an additional credit, the court should consider the presence and amount of disparity between the incomes of the parties, giving more weight to those disparities in the parties' income of less than 20%; as well as considering which parent is responsible for the majority of the non-duplicated fixed expenditures, such as routine clothing costs, costs for extracurricular activities, school supplies, and any other similar non-duplicated fixed expenditures.

**CAVEAT:** Except as provided in the next paragraph, an adjustment on line 11 shall not be allowed unless the adjusted monthly gross income of the parent entitled to receive support (line 3) exceeds the amounts set forth in the table below for the appropriate number of children.

1 child	2 children	3 children	4 children	5 children	6 children
\$1,400	\$1,700	\$1,900	\$2,100	\$2,350	\$2,550

Notwithstanding the amounts set forth in the table above, an adjustment may be given if: (1) The parent entitled to receive support is unemployed or underemployed because the expenses of that parent are paid, in whole or in part, by a person with whom that parent cohabits, or (2) The adjusted monthly gross income of the parent obligated to pay support (line 3) less the presumed child support amount (line 12) is equal to or less than the amounts set forth in the table above for

<sup>128</sup> Missouri Supreme Court. *Directions, Comments for Use and Examples for Completion of Form No. 14*. Retrieved from <https://www.courts.mo.gov/file.jsp?id=29740>

	<p>the appropriate number of children. A. COMMENT: If an award of custody results in a child or children spending substantially equal time with both parents, the adjustment for the obligated parent may be determined after considering all relevant factors, including those set forth in</p> <p>B. COMMENT: The presumed child support amount is not unjust or inappropriate if the parent obligated to pay support receives an adjustment greater than 10% if that parent is awarded periods of overnight visitation or custody of more than 109 days per year. C. COMMENT: In any proceeding to establish a child support order or to modify the support payable under an existing order, the adjustment on line 11 may be rebutted if the parent obligated to pay support: (1) Without fault of the parent entitled to receive support, does not exercise the periods of overnight visitation or custody with the children who are the subject of this proceeding awarded under any order or judgment, (2) Does not incur significant expenditures as a result of exercise of the periods of overnight visitation or custody awarded under any order or judgment, or (3) Without fault of the parent entitled to receive support, exercises the periods of overnight visitation or custody awarded under any order or judgment with some but not all of the children who are the subject of this proceeding.</p>
Nebraska	<p>§ 4-212. Joint physical custody.</p> <p>When a specific provision for joint physical custody is ordered and each party's parenting time exceeds 142 days per year, it is a rebuttable presumption that support shall be calculated using worksheet 3 [cross-credit with 1.5 multiplier]. When a specific provision for joint physical custody is ordered and one party's parenting time is 109 to 142 days per year, the use of worksheet 3 [cross-credit with 1.5 multiplier] to calculate support is at the discretion of the court. If <b>child support is determined under this paragraph, all reasonable and necessary direct expenditures made solely for the child(ren) such as clothing and extracurricular activities shall be allocated between the parents but</b> shall not exceed the proportion of the obligor's parental contributions (worksheet 1, line 6). For purposes of these guidelines, a "day" shall be generally defined as including an overnight period.</p>
New Hampshire	<p>458-C:5 Adjustments to the Application of Guidelines Under Special Circumstances. –</p> <p>I. Special circumstances, including, but not limited to, the following, if raised by any party to the action or by the court, shall be considered in light of the best interests of the child and may result in adjustments in the application of support guidelines provided under this chapter. The court shall make written findings relative to the applicability of the following:</p> <p>(h) Parenting schedule.</p> <p>(1) Equal or approximately equal parenting residential responsibilities in and of itself shall not eliminate the need for child support and shall not by itself constitute ground for an adjustment.</p> <p>(2) In considering requests for adjustments to the application of the child support guidelines based on the parenting schedule, the court may consider the following factors:</p> <p>(A) Whether, in cases of equal or approximately equal residential responsibility, the parties have agreed to the specific apportionment of variable expenses for the children, including but not limited to education, school supplies, day care, after school, vacation and summer care, extracurricular activities, clothing, health care coverage costs and uninsured health care costs, and other child-related expenses.</p> <p>(B) Whether the obligor parent has established that the equal or approximately equal residential responsibility will result in a reduction of any of the fixed costs of child rearing incurred by the obligee parent.</p>
New Jersey	<p>d. Unless the parties otherwise agree, the final child support order <b>shall not be based on a calculated shared-parenting award if:</b></p> <p>(1) the PPR's weekly household net income (including means-tested income such as TANF and the net income of other adults living in the household) plus the shared-parenting child support award <b>is less than two times the U.S. poverty guideline</b> for the number of persons in the household (PPR household income thresholds are shown in table below); or</p>

(2) in any case, the court finds that the net income of the primary household remaining after the calculation of the shared-parenting award is not sufficient to maintain the household for the child. When evaluating the adequacy of the primary household's total income, the court shall consider the cost of living in the region where the child resides (e.g., the average cost of housing, food, and transportation).

Shared Parenting - A Parent of Primary Residence (PPR) is a parent who provides a residence for the child for more than 50% of overnights annually or, **if sharing is equal, provides the residence for the child while he or she is attending school.** The PPR may be either the obligee or obligor depending on the parents' income and amount of time spent with the child. A Parent of Alternate Residence (PAR) is a parent who provides an overnight residence for the child when he or she is not with the PPR. See Appendix IXA, paragraphs 14(b) and 14(c).

Shared Parenting - The Shared-Parenting Worksheet (Appendix IX-D) shall be used if the Parent of Alternate Residence has the child for the substantial equivalent of two or more overnights per week, excluding extended PAR Time (e.g., vacations) and **has shown that separate living accommodations for the child are provided in the alternate household** (see shared parenting standards in Appendix IX-A, paragraph 14(c)).

**Non-Compliance with Parenting Plan** - If an award is adjusted prospectively for shared-parenting time and the PAR, over a reasonable period, does not conform with the shared-parenting schedule included in a parenting plan or court order, the PPR may file an application with the Family Division requesting that the child support order be adjusted to reflect the level of PAR Time that is being exercised. A simple application for this purpose shall be made available to parents by the Family Division of the Superior Court to ensure that the affected children receive the financial support that is needed. If shared-parenting time was used to adjust the child support award and the court finds that the PAR, over a reasonable period, failed to comply with the shared-parenting schedule, the child support award shall be recalculated to reflect the actual PAR Time that is being exercised. Alternatively, the court may adjust the award to a zero shared-parenting level until the PAR shows that shared-parenting time is actually being exercised. Where possible, the court shall hear and decide applications to recalculate child support due to a parent's failure to comply with a shared-parenting schedule in a summary manner. The determination of the effective date of any modification shall be consistent with N.J.S.A. 2A:17-56.23a unless otherwise ordered by the court. If the court finds that a parent willfully failed to comply with a parenting time provision or entered into such a provision merely to reduce the child support award, it may award counsel fees to a PPR in addition to adjusting the amount of support as provided in this paragraph.

## Oregon

### 137-050-0730 Parenting Time Credit

(1) For the purposes of this rule:

(a) "Primary physical custody" means the parent provides the primary residence for the child and is responsible for the majority of the day-to-day decisions concerning the child.<sup>1</sup>

(b) "Split custody" means that there are two or more children and each parent has at least one child more than 50 percent of the time.

(2) If there is a **current<sup>2</sup> written parenting time agreement or court order providing** for parenting time, calculate each parent's overnights for the minor children<sup>3</sup> as follows<sup>4</sup>:

(a) Determine the average number of overnights using two consecutive years.<sup>5</sup>

(b) Add the total number of overnights the parent is allowed with each minor child and divide by the total number of minor children

1 Commentary: A parent may be ordered to pay child support notwithstanding that parent's status as the custodial parent. Under ORS 25.240, a parent may be ordered to pay support attributable to those periods of time when s/he does not have physical custody of the children. Matter of Marriage of Greenfield, 130 Or App 632, 635-36 (1994).

2 Commentary: The word "current" in "a current written parenting time agreement or court order providing for parenting time" acknowledges those situations where the current parenting time situation is not reflected in the last court order or written agreement. For example, assume Mother has custody of the child and Father has a court order for 30% parenting time. At some point, the child goes to live with the Father, and Mother now exercises parenting time. Father seeks a support order, but the existing custody order has never been changed. Pursuant to ORS 25.240, the parent with primary physical custody (now, the Father) may get a support order, regardless of the terms of the last custody order. In this circumstance, the existing custody (or parenting time) order is not "current" and, therefore, would not be used to calculate parenting

time for child support. Support is calculated with no shared parenting time until a new written parenting time agreement or court order providing for parenting time is entered.

3 Commentary: Parenting time is calculated based on minor children and those 18-year-olds attending high school and living with a parent. See ORS chapter 107; Matter of Marriage of Smith, 44 Or App 635, 641 (1980); Matter of Marriage of Miller, 62 Or App 371, 374 (1983).

4. Commentary: Where the child support computation will be submitted as part of a petition that includes parenting time, the calculation should reflect the parenting time included in the action. This applies primarily to private actions for dissolution (under ORS Chapter 107) and establishing paternity and/or parenting time for unmarried parents (under ORS Chapter 109). The Child Support Program will continue to require a written agreement or court order in order to consider shared parenting time in administrative actions.

**(c) Notwithstanding the calculation provided in subsections (2)(a) and (2)(b), parenting time may be determined using a method other than overnights if the parents have an alternative parenting time schedule** in which a parent has significant time periods where the minor child is in the parent's physical custody but does not stay overnight. For example, in lieu of overnights, 12 continuous hours may be counted as one day. Additionally, blocks of time of four hours up to 12-hours may be counted as half-days, but not in conjunction with overnights. Regardless of the method used, blocks of time may not be used to equal more than one full day per 24-hour period.

(3) If the parents have split custody but no written parenting time agreement, determine each parent's parenting time overnights by dividing the number of minor children with the parent by the total number of children and multiplying by 365.

(4) If there is no current written parenting time agreement or court order providing for parenting time, the parent or party having primary physical custody of the minor child will be treated as having all of the parenting time for that child unless a court or administrative law judge determines actual parenting time.

(5) If the court or administrative law judge determines actual parenting time exercised by a parent is different than what is provided in a written parenting plan or court order, the parenting time overnights may be calculated using the actual parenting time exercised by the parent.<sup>6</sup>

**(6) Determine each parent's parenting time credit percentage as follows:**

**credit percentage =  $1 / (1 + e^{(-7.14 * ((\text{overnights} / 365) - 0.5))}) - 2.74\% + (2 * 2.74\% * (\text{overnights} / 365))$**

(a) The precisely computed credit percentage is preferred. However, where this is impractical (for example, when calculating support by hand) an approximate credit percentage can be determined by referencing the table at the end of this rule using the parents' average overnights determined in step 2, 3, or 4, rounding up or down to the nearest whole number of overnights.

(7) To determine the amount of each parent's parenting time credit:<sup>7 8</sup>

6 Commentary: A finding of actual parenting time does not alter the written parenting time agreement or court order. If the parties want the written parenting time agreement to reflect the actual parenting time exercised the parties will need to amend the written parenting time agreement through the judicial process or stipulate to a new written parenting time agreement.

7 Commentary: This rule applies to parents whose child lives with a caretaker or is in state care. The caretaker has no obligation and needs no credit, but a credit is computed for each parent with parenting time.

8 Commentary: The assumptions underlying the formula include: • Any parenting time creates some expenses for the parent • Low levels of parenting time result in low levels of expenses, because there are fewer fixed, duplicated expenses like housing, and do not significantly decrease the expenses of the parent with greater parenting time. • Higher levels of parenting time increase the likelihood that the parents will incur fixed, duplicated expenses. • At equal parenting time, parents' expenses are most likely to be equal.

(a) Determine the minor children's portion of the combined basic support obligation, as determined in OAR 137-050-0725(2), by dividing the combined basic support obligation by the total number of minor children and children attending school and multiply the result by the number of minor children only.

(b) Multiply the result by each parent's parenting time credit percentage.

Table: Parenting Time Credit Percentage by Number of Overnights

Overnights	Credit %	Overnights	Credit %	Overnights	Credit %	Overnights	Credit %
0	0	36	0.0319	72	0.0867	108	0.1777
1	0.0007	37	0.033	73	0.0887	109	0.1809
2	0.0014	38	0.0342	74	0.0907	110	0.1841
3	0.0021	39	0.0354	75	0.0927	111	0.1873
4	0.0028	40	0.0366	76	0.0948	112	0.1906
5	0.0035	41	0.0378	77	0.0968	113	0.1939
6	0.0042	42	0.0391	78	0.099	114	0.1972
7	0.0049	43	0.0404	79	0.1011	115	0.2006
8	0.0057	44	0.0416	80	0.1033	116	0.204
9	0.0065	45	0.043	81	0.1055	117	0.2075
10	0.0072	46	0.0443	82	0.1077	118	0.211
11	0.008	47	0.0456	83	0.11	119	0.2145
12	0.0088	48	0.047	84	0.1123	120	0.2181
13	0.0096	49	0.0484	85	0.1147	121	0.2217
14	0.0104	50	0.0498	86	0.117	122	0.2254
15	0.0113	51	0.0512	87	0.1194	123	0.229
16	0.0121	52	0.0527	88	0.1219	124	0.2327
17	0.0129	53	0.0541	89	0.1243	125	0.2365
18	0.0138	54	0.0556	90	0.1268	126	0.2403
19	0.0147	55	0.0571	91	0.1294	127	0.2441
20	0.0156	56	0.0587	92	0.1319	128	0.248
21	0.0165	57	0.0602	93	0.1345	129	0.2519
22	0.0174	58	0.0618	94	0.1372	130	0.2558
23	0.0184	59	0.0634	95	0.1398	131	0.2598
24	0.0193	60	0.0651	96	0.1425	132	0.2638
25	0.0203	61	0.0667	97	0.1453	133	0.2678
26	0.0212	62	0.0684	98	0.148	134	0.2719
27	0.0222	63	0.0701	99	0.1508	135	0.276
28	0.0232	64	0.0719	100	0.1537	136	0.2801
29	0.0243	65	0.0736	101	0.1566	137	0.2843
30	0.0253	66	0.0754	102	0.1595	138	0.2885
31	0.0264	67	0.0772	103	0.1624	139	0.2927
32	0.0274	68	0.0791	104	0.1654	140	0.297
33	0.0285	69	0.0809	105	0.1684	141	0.3013
34	0.0296	70	0.0828	106	0.1715	142	0.3056
35	0.0308	71	0.0847	107	0.1746	143	0.31
....	....	...	...	...	...	...	...

PA

#### Explanatory Comment—2021

Previously, the Basic Child Support Schedule incorporated a 30% child custody presumption, which created approximately a 5% decrease in the basic child support obligation across all combined monthly net incomes regardless of the actual custody schedule. The new Basic Child Support Schedule reflects the actual expenses of an intact family living in a single household at the various combined monthly net incomes and the number of children with no shared custody adjustment.

To the extent the parties share physical custody with the obligor having 40% or more of the annual overnights as set forth in Pa.R.C.P. No. 1910.16-4(c), the formula in Pa.R.C.P. No. 1910.16-4(a)(1)(Part D) or (a)(2)(Part II) should be used to calculate the appropriate shared custody adjustment.

#### PART D. SUBSTANTIAL OR SHARED PHYSICAL CUSTODY ADJUSTMENT, IF APPLICABLE (See subdivision (c))

25. a. Percentage of time obligor spends with the child (divide number of overnights with the obligor by 365 and multiply by 100) %

b. Subtract 30% ( 30%)

	c.	Difference (line 25a minus line 25b)	%
	d.	Obligor's Adjusted Percentage Share of the Basic Child Support Obligation (line 21 minus line 25c)	%
	e.	Obligor's Preliminary Adjusted Basic Child Support Obligation (line 20 multiplied by line 25d)	
	f.	Further adjustment, if necessary under subdivision (c)(2)	

7) Adjustment for Parenting Time.

**Tennessee**  
129

(a) These Guidelines presume that, in Tennessee, when parents live separately, the children will typically reside primarily with one parent, the PRP, and stay with the other parent, the ARP, a minimum of every other weekend from Friday to Sunday, two (2) weeks in the summer, and two (2) weeks during holidays throughout the year, for a total of eighty (80) days per year. The Guidelines also recognize that some families may have different parenting situations and, thus, allow for an adjustment in the child support obligation, as appropriate, in compliance with the criteria specified below.

(b) Parenting Time.

1. The adjustment is based upon the ARP's number of days of parenting time with the children in the case under consideration.

2. Fifty-Fifty / Equal-Parenting Situations.

In this situation, there is ...

(i) Fifty-Fifty / Equal-Parenting. ...

(ii) Fifty-Fifty / Equal-Parenting Combined with Split Parenting. ...

(iii) Fifty-Fifty / Equal-Parenting Combined with Standard Parenting. ...

(h) Reduction in Child Support Obligation for Additional Parenting Time.

1. If the ARP spends ninety-two (92) or more days per calendar year with a child, or an average of ninety-two (92) days with all applicable children, an assumption is made that the ARP is making greater expenditures on the child during his/her parenting time for transferred costs such as food and/or is making greater expenditures for child-rearing expenses for items that are duplicated between the two (2) households (e.g., housing or clothing). A reduction to the ARP's child support obligation may be made to account for these transferred and duplicated expenses, as set forth in this chapter. The amount of the additional expenses is determined by using a mathematical formula that changes according to the number of days the ARP spends with the child and the amount of the BCSO. The mathematical formula is called a "variable multiplier."

2. Upon reaching the threshold of ninety-two (92) days, the variable multiplier shall be applied to the BCSO, which will increase the amount of the BCSO in relation to the ARP's parenting time, in order to account for the child-rearing expenses incurred by the ARP during parenting time. These additional expenses are divided between the parents according to each parent's PI. The PRP's share of these additional expenses represents an amount owed by the PRP to the ARP and is applied as a credit against the ARP's obligation to the PRP.

3. The presumption that more parenting time by the ARP results in greater expenditures which should result in a reduction to the ARP's support obligation may be rebutted by evidence.

4. Calculation of the Parenting Time Credit.

(i) First, the variable multiplier is determined by multiplying a standard per diem of .0109589 [2 / 182.5] by the ARP's parenting time determined pursuant to paragraph (7)(b) above. For example, the 94 days of parenting time calculated in the example from paragraph (7)(b)4(i) is multiplied by .0109589, resulting in a variable multiplier of 1.0301366 [94 x .0109589].

(ii) Second, the variable multiplier calculated in subpart (i) above is applied to the amount of the parties' total BCSO, which results in an adjusted BCSO. For example, application of the variable multiplier

<sup>129</sup> Tennessee Department of State Division of Publications (June 20, 2019). Notice of Rulemaking Hearing: Department of Human Services Child Support Services.



determined above for ninety-four (94) days of parenting time to a BCSO of one thousand dollars (\$1000) would result in an adjusted BCSO of one thousand thirty dollars and fourteen cents (\$1030.14) [ $\$1000 \times 1.0301366$ ].

(iii) Third, the amount of the BCSO is subtracted from the adjusted BCSO. The difference is the child-rearing expenses associated with the ARP's additional parenting time. In the example above, the additional child-rearing expenses associated with the ninety-four (94) days of parenting time would be thirty dollars and fourteen cents (\$30.14) [ $\$1030.14 - \$1000$ ].

(iv) The additional child-rearing expenses determined in subpart (iii) above are prorated between the parents according to each parent's percentage of income (PI). The PRP's share of these additional expenses is applied as an adjustment against the ARP's pro-rata share of the original BCSO. For instance, if the PRP's PI is forty percent (40%), the PRP's share of the additional expenses in the example above would be twelve dollars and six cents (\$12.06) [ $\$30.14 \times 40\%$ ]. The twelve dollars and six cents (\$12.06) is applied as a credit against the ARP's share of the BCSO, resulting in a child support obligation for the ARP of five hundred eighty-seven dollars and ninety-four cents (\$587.94) [ $\$1000 \times 60\% = \$600 - \$12.06$ ].

**West  
Virginia<sup>130</sup>**

**PART 5. SUPPORT IN EXTENDED SHARED PARENTING**

**OR SPLIT PHYSICAL CUSTODY CASES. §48-13-501. Extended shared parenting adjustment.**

Child support for cases with extended shared parenting is calculated using Worksheet B. The following method is used only for extended shared parenting: That is, in cases where each parent has the child for more than one hundred twenty-seven days per year (thirty-five percent).

(1) The basic child support obligation is multiplied by 1.5 to arrive at a shared parenting basic child support obligation. The shared parenting basic child support obligation is apportioned to each parent according to his or her income. In turn, a child support obligation is computed for each parent by multiplying that parent's portion of the shared parenting child support obligation by the percentage of time the child spends with the other parent. The respective basic child support obligations are then offset, with the parent owing more basic child support paying the difference between the two amounts. The transfer for the basic obligation for the parent owing less basic child support shall be set at zero dollars.

(2) Adjustments for each parent's additional direct expenses on the child are made by apportioning the sum of the parent's direct expenditures on the child's share of any unreimbursed child health care expenses, work-related child care expenses and any other extraordinary expenses agreed to by the parents or ordered by the court less any extraordinary credits agreed to by the parents or ordered by the court to each parent according to their income share. In turn each parent's net share of additional direct expenses is determined by subtracting the parent's actual direct expenses on the child's share of any unreimbursed child health care expenses, work-related child care expenses and any other extraordinary expenses agreed to by the parents or by the court less any extraordinary credits agreed to by the parents or ordered by the court from their share. The parent with a positive net share of additional direct expenses owes the other parent the amount of his or her net share of additional direct expenses. The parent with zero or a negative net share of additional direct expenses owes zero dollars for additional direct expenses.

(3) The final amount of the child support order is determined by summing what each parent owes for the basic support obligation and additional direct expenses as defined in subdivisions (1) and (2) of this section. The respective sums are then offset, with the parent owing more paying the other parent the difference between the two amounts.

**§48-13-502. Extended shared parenting worksheet.**

<sup>130</sup> West Virginia Code Chapter 48 Domestic Relations Article 13 Guidelines for Child Support Awards. Retrieved from <http://www.wvlegislature.gov/wvcode/code.cfm?chap=48&art=13>.



## APPENDIX D: INDIANA PARENTING-TIME GUIDELINES

The entirety of the Indiana Parenting-Time Guidelines consists of 27 pages and can be accessed at <https://www.in.gov/judiciary/rules/parenting/parenting.pdf>. The table of contents is copied below.

Indiana Rules of Court

### Indiana Parenting Time Guidelines

*Including Amendments Received Through January 1, 2022*

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## APPENDIX E: KENTUCKY'S AND WEST VIRGINIA'S EQUAL CUSTODY PRESUMPTION

### Kentucky

#### **403.270 Custodial issues – Best interests of child shall determine – Rebuttable presumption that joint custody and equally shared parenting time is in child's best interests – De facto custodian.**

- (1) (a) As used in this chapter and KRS 405.020, unless the context requires otherwise, "de facto custodian" means a person who has been shown by clear and convincing evidence to have been the primary caregiver for, and financial supporter of, a child who has resided with the person for a period of six (6) months or more if the child is under three (3) years of age and for a period of one (1) year or more if the child is three (3) years of age or older or has been placed by the Department for Community Based Services. Any period of time after a legal proceeding has been commenced by a parent seeking to regain custody of the child shall not be included in determining whether the child has resided with the person for the required minimum period.
- (b) A person shall not be a de facto custodian until a court determines by clear and convincing evidence that the person meets the definition of de facto custodian established in paragraph (a) of this subsection. Once a court determines that a person meets the definition of de facto custodian, the court shall give the person the same standing in custody matters that is given to each parent under this section and KRS 403.280, 403.340, 403.350, 403.822, and 405.020.
- (2) The court shall determine custody in accordance with the best interests of the child and equal consideration shall be given to each parent and to any de facto custodian. Subject to KRS 403.315, there shall be a presumption, rebuttable by a preponderance of evidence, that joint custody and equally shared parenting time is in the best interest of the child. If a deviation from equal parenting time is warranted, the court shall construct a parenting time schedule which maximizes the time each parent or de facto custodian has with the child and is consistent with ensuring the child's welfare. The court shall consider all relevant factors including:
  - (a) The wishes of the child's parent or parents, and any de facto custodian, as to his or her custody;
  - (b) The wishes of the child as to his or her custodian, with due consideration given to the influence a parent or de facto custodian may have over the child's wishes;
  - (c) The interaction and interrelationship of the child with his or her parent or parents, his or her siblings, and any other person who may significantly affect the child's best interests;
  - (d) The motivation of the adults participating in the custody proceeding;
  - (e) The child's adjustment and continuing proximity to his or her home, school, and community;
  - (f) The mental and physical health of all individuals involved;
  - (g) A finding by the court that domestic violence and abuse, as defined in KRS 403.720, has been committed by one (1) of the parties against a child of the parties or against another party. The court shall determine the extent to which

the domestic violence and abuse has affected the child and the child's relationship to each party, with due consideration given to efforts made by a party toward the completion of any domestic violence treatment, counseling, or program;

- (h) The extent to which the child has been cared for, nurtured, and supported by any de facto custodian;
  - (i) The intent of the parent or parents in placing the child with a de facto custodian;
  - (j) The circumstances under which the child was placed or allowed to remain in the custody of a de facto custodian, including whether the parent now seeking custody was previously prevented from doing so as a result of domestic violence as defined in KRS 403.720 and whether the child was placed with a de facto custodian to allow the parent now seeking custody to seek employment, work, or attend school; and
  - (k) The likelihood a party will allow the child frequent, meaningful, and continuing contact with the other parent or de facto custodian, except that the court shall not consider this likelihood if there is a finding that the other parent or de facto custodian engaged in domestic violence and abuse, as defined in KRS 403.720, against the party or a child and that a continuing relationship with the other parent will endanger the health or safety of either that party or the child.
- (3) The abandonment of the family residence by a custodial party shall not be considered where said party was physically harmed or was seriously threatened with physical harm by his or her spouse, when such harm or threat of harm was causally related to the abandonment.
- (4) If the court grants custody to a de facto custodian, the de facto custodian shall have legal custody under the laws of the Commonwealth.

**Effective:** July 14, 2018

**History:** Amended 2018 Ky. Acts ch. 198, sec. 1, effective July 14, 2018. -- Amended 2004 Ky. Acts ch. 133, sec. 42, effective July 13, 2004. -- Amended 2000 Ky. Acts ch. 14, sec. 51, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 250, sec. 1, effective July 15, 1998. -- Amended 1992 Ky. Acts ch. 169, sec. 2, effective July 14, 1992. -- Amended 1980 Ky. Acts ch. 158, sec. 1, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 86, sec. 1, effective June 17, 1978; and ch. 369, sec. 1, effective June 17, 1978. -- Created 1972 Ky. Acts ch. 182, sec. 17.



## *Navigating West Virginia's New Custody Law: Child Custody & Parenting Plans*

WRITTEN BY LEGAL AID WV (06/27/2022)

Retrieved from: <https://legalaidwv.org/news/navigating-west-virginias-new-custody-law/#:~:text=West%20Virginia%20Legislators%20have%20made,custody%2050%2F50%20between%20parents.>

West Virginia Legislators have made a few changes to custody law that started on June 10, 2022. In cases dealing with custody, the Family Court now has a presumption, or belief, that there should be 50/50 shared equal custody between parents. This means Judges will equally split custody 50/50 between parents. This new law does not create a substantial change in circumstances. This means it cannot be used as the only reason to change an existing parenting plan.

This belief of 50/50 custody is “rebuttable” or challengeable. To challenge it, a parent must prove “by a preponderance of the evidence” that the other parent should not have 50/50 custody. This means there is over a 50% chance that what you are saying is true. At your first hearing if you have not already reached an agreement on custody with the other parent, you can bring in evidence to help your case. This includes photographs, text messages, witnesses, etc.

At the first hearing, the Family Court is going to decide on temporary custody for the child. If the parents have already agreed on a parenting plan, then the Family Court will likely use that agreement. If a parent disagrees with the temporary custody plan they can file an appeal with the West Virginia Intermediate Court of Appeals. This is a new court will conduct a quick review of the Family Court’s decision.

If a person chooses to appeal that does not stop the Family Court decision from being followed for the time being. The Family Court also will not pause future hearings in your custody case. This applies even if the Intermediate Court has not yet heard your appeal. Since the Intermediate Court of Appeals is a brand-new court system, it is not clear how fast a review will be done.

The Family Court will consider many factors when deciding custody. The Court can consider the actions of significant others, friends, and family that often spend time at your home. This is to see if any of those people will do something harmful or if there are concerns with their past behavior. The Court also looks at the travel distance between parents’ homes. Also, the amount of time each child spends with the parent or a third party, and if the child has siblings. The Court can also consider whether a child, or parent, has a serious medical condition that can make care difficult. The Court can also consider if a parent has a past history of domestic violence or any current domestic violence cases. The Court will want to know if a parent has any felonies on their criminal record. In addition, the Court may also want to know where the children want to live if they are over 14 years old. If the child is not yet 14 years old, the Court will evaluate if they seem mature enough to have a preference.

If a parent wants to challenge 50/50 shared custody they should bring evidence to their hearings. The evidence should show any of these kinds of behavior. At the hearing, the judge will hear both sides and consider all the evidence and factors. Then the judge will make a decision on what custody arrangement is best for the child.

There is an option to “modify” or change, the parenting plan in the future. To modify, a parent must show a “substantial change in circumstances” since the current plan was entered. The parent must also show that the change is in the best interest of the child. Examples of a substantial change include things like unstable housing conditions, not giving the child medical care, or a disruption in the child’s education. If you cannot show a substantial change, you can still modify it for a few reasons. Please see our [custody modification article](#) for more information.



## **Appendix B: Deviation Study**

### **Background**

In accordance with chapter §3119.03 of the Ohio Revised Code, the amount of child support calculated pursuant to the basic child support schedule and worksheet is presumed to be the correct amount of child support due. If a court finds that the presumed amount would be unjust or inappropriate and would not be in the best interest of the child, the court may deviate from the basic child support schedule. A list of relevant deviation factors and criteria can be found in section §3119.23 of the Revised Code.

The deviation study is intended to be an analysis of the deviation factors to determine:

1. How frequently courts are using each of the deviation factors.
2. When a court does not use a deviation factor from §3119.23, what other factors does the court consider?
3. Which deviations require clarification?
4. Are there unused deviation criteria that should be removed?
5. Is there a need for additional deviation criteria?

The Council used the same methodology for this deviation study as was used by the three previous Councils. The Council developed a questionnaire which was distributed to nine different counties, all of which were asked to review and complete a questionnaire for each new and modified child support order over a specified period of time. An automated survey tool was provided to the counties to collect and compile the data.

The study collected data in the following areas:

1. The percentage of court orders where a deviation had been granted.
2. The types and frequency of deviations granted.
3. Reasons for deviations not prescribed by statute.
4. Case-specific questions:
  - a. Was a guidelines worksheet attached to the order?
  - b. Was the mother or the father ordered to pay support?
  - c. What type of worksheet was used - Sole Residential and Shared Parenting or Split Parenting?

### **Methodology**

The Council invited nine counties (two large, three medium, and four small) to participate in the deviation study and agreed to do so: Franklin and Hamilton, (large); Fairfield, Clark, and Stark (medium); and Defiance, Noble, Seneca, and Van Wert (small).

The Council developed a questionnaire to be completed by each participating child support enforcement agency (CSEA) for every new or modified child support received by the CSEA between October 17, 2022 and October 31, 2022. The questionnaire consisted of eight sections: case type; order type; custody; type of deviation; types of deviations granted; a description of deviations that did not fit into prescribed categories; the actual and adjusted support obligations; information specific to the completion of the order, and whether or not there was an upward or downward deviation.

## Results

County	Questionnaires Completed	Administrative Orders	Court Orders
Clark	31	1	30
Defiance	9	0	9
Fairfield	29	3	26
Franklin	134	21	113
Hamilton	186	108	78
Noble	0	0	0
Seneca	31	15	16
Stark	92	34	58
Van Wert	6	0	6
TOTAL	518	182	336

## Case Profile

		Total	Percentage of Total Orders
<b>Order Issuer</b>			
	Domestic Relations Court	217	42%
	Juvenile Court	119	23%
	Administrative (CSEA)	182	35%
TOTAL		518	100%

<b>Order Type</b>			
	New	317	61%
	Modification	201	39%
TOTAL		518	100%

<b>Custody</b>			
	Sole	304	59%
	Shared	126	24%
	Split	12	2%
	Can't Tell	76	15%
TOTAL		518	100%



Who was ordered to pay support?			
	Father	449	87%
	Mother	68	13%
	Unknown	1	0%
TOTAL		518	100%

Who was ordered to receive support?			
	Mother	406	78%
	Father	45	9%
	Caretaker Relative	56	11%
	Caretaker Agency	10	2%
	Unknown	1	0%
TOTAL		518	100%

Was a Guideline Worksheet attached to the order?			
		Total	Percentage of Total Orders
	Yes	465	90%
	No	53	10%
TOTAL		518	100%

Type of worksheet used to calculate the order			
		Total	Percentage of Total Orders
Sole/Shared Parenting Worksheet		506	98%
Split Parenting Worksheet		12	2%
TOTAL		518	100%

Was the order issued by default?			
		Total	Percentage of Total Orders
Established by Default		96	19%

Not Established by Default	358	69%
Unknown	64	12%
TOTAL	518	100%

Was the obligor's income imputed?		
	Total	Percentage of Total Orders
Income Imputed	174	34%
Income not Imputed	267	51%
Unknown	77	15%
TOTAL	518	100%

Is the obligor's income within the self-sufficiency reserve?		
	Total	Percentage of Total Orders
Yes	288	56%
No	177	34%
Unknown (no worksheet attached)	53	10%
TOTAL	518	100%

<b>Does the order include an adjustment for a parenting time order that equals or exceeds 90 overnights per year?</b>		
	<b>Total</b>	<b>Percentage of Total Orders</b>
Yes	81	16%
No	385	74%
Unknown	52	10%
<b>TOTAL</b>	<b>518</b>	<b>100%</b>

### Deviation Information

<b>County</b>	<b>Court Orders</b>	<b>Court Orders with Deviation</b>	<b>Percentage of Court Orders with Deviation</b>
Clark	30	1	3%
Defiance	9	7	78%
Fairfield	26	7	27%
Franklin	113	29	26%
Hamilton	78	35	45%
Noble	0	0	0
Seneca	16	2	13%
Stark	58	13	22%
Van Wert	6	1	17%
<b>TOTAL</b>	<b>336</b>	<b>95</b>	<b>28%</b>

Does the deviation increase or decrease the child support obligation?		
	Total	Percentage of Total Deviations
Increase	5	5%
Decrease	90	95%
TOTAL	95	100%

Reason for Deviation			
		Total	Percentage of Total Deviations
a.	Special and unusual needs of the child or children, including needs arising from the physical or psychological condition of the child or children	1	1%
b.	Other court-ordered payments	1	1%
c.	Extended parenting time or extraordinary costs associated with parenting time, including extraordinary travel expenses when exchanging the child or children for parenting time	42	44%

d.	The financial resources and the earning ability of the child or children	0	0%
e.	The relative financial resources, including the disparity in income between parties or households, other assets, and the needs of each parent	5	5%
f.	The obligee's income, if the obligee's annual income is equal to or less than one hundred per cent of the federal poverty level	0	0%
g.	Benefits that either parent receives from remarriage or sharing living expenses with another person	0	0%
h.	The amount of federal, state, and local taxes actually paid or estimated to be paid by a parent or both of the parents	0	0%
i.	Significant in-kind contributions from a parent, including, but not limited to, direct payment for lessons, sports equipment, schooling, or clothing	2	2%
j.	Extraordinary work-related expenses incurred by either parent	0	0%
k.	The standard of living and circumstances of each parent and the standard of living the child would have	0	0%

	enjoyed had the marriage continued or had the parents been married		
l.	The educational opportunities that would have been available to the child had the circumstances requiring a child support order not arisen	0	0%
m.	The responsibility of each parent for the support of others, including support of a child or children with disabilities who are not subject to the support order	0	0%
n.	Post-secondary educational expenses paid for by a parent for the parent's own child or children, regardless of whether the child or children are emancipated	0	0%
o.	Costs incurred or reasonably anticipated to be incurred by the parents in compliance with court-ordered reunification efforts in child abuse, neglect, or dependency cases	0	0%
p.	Extraordinary childcare costs required for the child or children that exceed the maximum state-wide average cost estimate as described in division (P)(1)(d) of section 3119.05 of the Revised Code, including extraordinary costs associated with caring for a child	1	1%

	or children with specialized physical, psychological, or educational needs		
q.	Any other relevant factor	23	24%
r.	Unknown	29	31%



Any Other Relevant Factor(s):		
	Total	Percentage of Total Deviations
Agreement of the parties	12	13%
Mother claiming both children for tax purposes	1	1%
Provision of private health insurance benefits for the child	3	3%
Equal division of child-related expenses and equal parenting time	5	5%
Relocation costs and job uncertainty	1	1%
The children receive social security survivor benefits	1	1%

## Data Comparison

Court Orders with Deviations			
Year	Court Orders	Court Orders with Deviation	Percentage of Court Orders with Deviation
2022	336	95	28%
2017	442	97	22%
2013	475	108	23%

Reason for Deviation	2022 Percentage of Total Deviations	2017 Percentage of Total Deviations	2013 Percentage of Total Deviations
Special and unusual needs of the child or children, including needs arising from the physical or psychological condition of the child or children	1%	1%	2%
Other court-ordered payments	1%	0%	4%
Extended parenting time or extraordinary costs associated with parenting time, including extraordinary travel expenses when exchanging the child or children for parenting time	44%	47%	29%

The financial resources and the earning ability of the child or children	0%	0%	1%
The relative financial resources, including the disparity in income between parties or households, other assets, and the needs of each parent	5%	6%	4%
The obligee's income, if the obligee's annual income is equal to or less than one hundred per cent of the federal poverty level	0%	0%	0%
Benefits that either parent receives from remarriage or sharing living expenses with another person	0%	0%	0%
The amount of federal, state, and local taxes actually paid or estimated to be paid by a parent or both of the parents	0%	1%	0%
Significant in-kind contributions from a parent, including, but not limited to, direct payment for lessons, sports equipment, schooling, or clothing	2%	10%	8%

Extraordinary work-related expenses incurred by either parent	0%	N/A*	N/A*
The standard of living and circumstances of each parent and the standard of living the child would have enjoyed had the marriage continued or had the parents been married	0%	4%	0%
The educational opportunities that would have been available to the child had the circumstances requiring a child support order not arisen	0%	0%	0%
The responsibility of each parent for the support of others, including support of a child or children with disabilities who are not subject to the support order	0%	1%	1%
Post-secondary educational expenses paid for by a parent for the parent's own child or children, regardless of whether the child or children are emancipated	0%	0%	0%
Costs incurred or reasonably anticipated to be incurred by the parents in compliance with court-ordered reunification efforts in	0%	N/A*	N/A*

child abuse, neglect, or dependency cases			
Extraordinary childcare costs required for the child or children that exceed the maximum state-wide average cost estimate as described in division (P)(1)(d) of section 3119.05 of the Revised Code, including extraordinary costs associated with caring for a child or children with specialized physical, psychological, or educational needs	1%	N/A*	N/A*
Any other relevant factor	24%	22%	13%
Unknown	31%	13%	15%
* Criteria added to Ohio Revised Code section 3119.23 March 28, 2019 (H.B. 366, G.A. 133)			

## Appendix C: Public Feedback

### Methodology

ODJFS conducted two surveys to invite public input regarding Ohio's child support guidelines. The first survey was posted through the ODJFS Child Support Customer Service Web Portal from December 17, 2021 through January 7, 2022. The second survey was made available from June 28, 2022 through September 15, 2022 and was posted through the ODJFS child support website, ODJFS Customer Service Web Portal, and the Register of Ohio.

From the two surveys issues, 2087 persons responded. Of the responders:

- 1703 self-identified as a child support recipient (obligee)
- 304 self-identified as a child support payor (obligor)
- 48 self-identified as a child support recipient and a payor
- 24 self-identified as other persons interested in the welfare of children
- 8 did not self-identify

ODJFS received 880 comments from the surveys. The table below provides a summary of comments by category:

